

L A W S

PASSED AT THE

SEVENTEENTH SESSION

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF DAKOTA.

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID TERRITORY,
ON TUESDAY, THE ELEVENTH DAY OF JANUARY, A. D. 1887,
AND CONCLUDED MARCH 11, A. D. 1887.

BISMARCK, DAK.:
TRIBUNE, PRINTERS AND BINDERS.
1887.

THE ORGANIC LAW.

BOUNDARIES OF DAKOTA.

All that part of the territory of the United States included within the following limits, namely: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence up the main channel of the same and along the boundary of the state of Minnesota to Big Stone lake; thence along the boundary line of the state of Minnesota to the Iowa line; thence along the boundary line of the state of Iowa to the point of intersection between the Big Sioux and Missouri rivers; thence up the Missouri river and along the boundary line of the state of Nebraska to the mouth of the Niobrara or Running Water river; thence following up the same, in the middle of the main channel thereof, to the mouth of the Keya Paha or Turtle Hill river; thence up that river to the forty-third parallel of north latitude; thence due west to the twenty-seventh meridian of longitude west from Washington; thence due north on that meridian to the forty-ninth degree of north latitude; thence east along the forty-ninth degree of north latitude to the place of beginning, is organized into a temporary government by the name of the Territory of Dakota.
[Section 1900 of the Revised Statutes of the United States.]

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Be it enacted, etc., That the northern boundary of the state of Nebraska shall be, and hereby is, subject to the provisions hereinafter contained, extended so as to include all that portion of the territory of Dakota lying south of the forty-third parallel of north latitude and east of the Keya Paha river and west of the main channel of the Missouri river; and when the Indian title to the lands thus described shall be extinguished, the jurisdiction over said land shall be, and hereby is, ceded to the state of Nebraska, and subject to all the conditions and limitations provided in the act of congress admitting Nebraska into the Union, and the northern boundary of the state shall be extended to said forty-third parallel as fully and effectually as if said lands had been included in the boundaries of said state at the time of its admission into the Union; reserving to the United States the original right of soil in said lands, and of disposing of the same; *Provided*, That this act,

so far as jurisdiction is concerned, shall not take effect until the president shall by proclamation declare that the Indian title to said lands has been extinguished, nor shall it take effect until the state of Nebraska shall have assented to the provisions of this act, and if the state of Nebraska shall not, by an act of its legislature, consent to the provisions of this act within two years next after the passage hereof, this act shall cease and be of no effect. [Approved March 28, 1882.]

THE FOLLOWING SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES, OF 1874, AND EXTRACTS FROM SUBSEQUENT STATUTES AT LARGE, INCLUDE ALL EXISTING UNITED STATES LAWS RELATING TO DAKOTA :

SECTION 1839. Nothing in this title shall be construed to impair the rights of person or property pertaining to the Indians in any territory, so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries and constitute no part of any territory now or hereafter organized, until such tribe signifies its assent to the president to be embraced within a particular territory.

SEC. 1840. Nor shall anything in this title be construed to affect the authority of the United States to make any regulations respecting the Indians of any territory, their lands, property or rights, by treaty, law or otherwise, in the same manner as might be if no temporary government existed or is hereafter established in any such territory.

SEC. 1841. The executive power of each territory shall be vested in a governor, who shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by the president. He shall reside in the territory for which he is appointed; and shall be commander-in-chief of the militia thereof. He may grant pardons and reprieves, and remit fines and forfeitures for offenses against the laws of the territory for which he is appointed, and respites for offenses against the laws of the United States, till the decision of the president can be made known thereon. He shall commission all officers who are appointed under the laws of such territory, and shall take care that the laws thereof be faithfully executed.

SEC. 1842. Every bill which has passed the legislative assembly of any territory shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it originated, and that house shall enter the objections at large on its journal and proceed to reconsider. If, after such reconsideration, two-thirds of that house agree to pass the bill, it shall be

sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered upon the journal of each house. If any bill is not returned by the governor within three days, Sundays excluded, after it has been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment *sine die*, prevent its return, in which case it shall not be a law.

SEC. 1843. There shall be appointed a secretary for each territory, who shall reside within the territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. In case of the death, removal, resignation or absence of the governor from the territory, the secretary shall execute all the powers and perform all the duties of governor during such vacancy or absence, or until another governor is appointed and qualified.

SEC. 1844. The secretary shall record and preserve all the law and proceedings of the legislative assembly, and all the acts and proceedings of the governor in the executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session thereof, to the president, and two copies of the laws within like time, to the president of the senate and to the speaker of the house of representatives, for the use of congress. He shall transmit one copy of the executive proceedings and official correspondence semi-annually, on the first day of January and July in each year, to the president. He shall prepare the acts passed by the legislative assembly for publication, and furnish a copy thereof to the public printer of the territory, within ten days after the passage of each act.

* * *

And hereafter it shall be the duty of the secretary of each territory to furnish estimates in detail for the lawful expenses thereof, to be presented to the secretary of the treasury on or before the first day of October of every year. [Part of Act approved June 20, 1874.]

* * *

And it shall be the duty of the secretary of each of the territories of the United States to furnish the surveyor general of the territory for the use of the United States, a copy duly certified of every act of the legislature of the territory, incorporating any city or town, the same to be forwarded by such secretary to the surveyor general within one month from the date of its approval. [Part of Act approved March 3, 1877.]

* * *

SEC. 1845. From and after the first day of July, eighteen hundred and seventy-three, the annual salaries of the governors of the several territories shall be three thousand five hundred dollars, and the salaries of the secretaries shall be two thousand five hundred dollars each.

SEC. 1846. The legislative power in each territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The members of both branches of the legislative assembly shall have the qualifications of voters as herein prescribed. They shall be chosen for the term of two years, and the sessions of the respective legislative assemblies shall be biennial. Each legislative assembly shall fix by law the day of commencement of its regular session. The members of the council and house of representatives shall reside in the district or county for which they are respectively elected.

SEC. 1847. Previous to the first election for members of the legislative assembly of a territory in which congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as he may designate and appoint, and the persons so appointed shall receive a reasonable compensation for their services. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such election and the returns thereof, as the governor may direct, and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties and districts is entitled under the act providing such temporary government for the particular territory. The persons having the highest number of legal votes in each of the districts for members of the council shall be declared by the governor to be duly elected to the council, and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of that house; but in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election, and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor appoints.

SEC. 1848. After such first election, however, the time, place and manner of holding elections by the people in any newly created territory, as well as of holding all such elections in territories now organized, shall be prescribed by the laws of each territory.

SEC. 1849. The apportionment of representation which the governor is authorized to make by section 1847, in case of a territory hereafter erected by congress, shall be as nearly equal as practi-

cable among the several districts and counties for such first election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population, except Indians not taxed; and thereafter in such new territory, as well as in all territories now organized, the legislative assemblies respectively may readjust and apportion the representation to the two houses thereof, among the several counties and districts, in such manner, from time to time, as they deem just and proper, but the members of either house, as authorized by law, shall not be increased.

SEC. 1851. The legislative power of every territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.

SEC. 1925. In addition to the restrictions upon the legislative power of the territories, contained in the preceding chapter, section eighteen hundred and fifty-one, the legislative assemblies of Colorado, Dakota and Wyoming shall not pass any law impairing the rights of private property, nor make any discrimination in taxing different kinds of property; but all property subject to taxation shall be taxed in proportion to its value.

Be it enacted, etc., That section eighteen hundred and fifty-two be, and the same hereby is, so amended as to read as follows: "SEC. 1852. The sessions of the legislative assemblies of the several territories of the United States shall be limited to sixty days' duration." *[Approved December 23, 1880.]*

Hereafter no extraordinary session of the legislature of any territory, wherever the same is now authorized by law, shall be called until the reasons for the same have been presented to the president of the United States, and his approval thereof has been duly given. *[Part of Act approved June 22, 1874.]*

That from and after the adjournment of the next session of the several territorial legislatures the council of each of the territories of the United States shall not exceed twelve members, and the house of representatives of each shall not exceed twenty-four members, and the members of each branch of the said several legislatures shall receive a compensation of four dollars per day each during the sessions provided by law, and shall receive such mileage as the law provides; and the president of the council and the speaker of the house of representatives shall each receive six dollars per day for the same time.

And the several legislatures at their next sessions are directed to divide their respective territories into as many council and

representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population (except Indians not taxed;) *Provided*, The number of council districts shall not exceed twenty-four in any one of said territories, and all parts of sections eighteen hundred and forty-seven, eighteen hundred and forty-nine, eighteen hundred and fifty three, and nineteen hundred and twenty-two of the revised statutes of the United States in conflict with the provisions herein are repealed.

That the subordinate officers of each branch of said territorial legislatures shall consist of one chief clerk, who shall receive a compensation of six dollars per day; one enrolling and engrossing clerk at five dollars per day; sergeant-at-arms and doorkeeper at five dollars per day; one messenger and watchman at four dollars per day each; and one chaplain at one dollar and fifty cents per day.

Said sums shall be paid only during the sessions of said legislatures, and no greater number of officers or charges per diem shall be paid or allowed by the United States to any territory. *[Part of act approved June 19, 1878.]*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled: That the legislature of the territory of Dakota shall hereafter consist of twenty-four members of the council and forty-eight members of the house of representatives, and that there shall be elected at the next general election in said territory two members of the council and four members of the house of representatives, in each of the twelve legislative districts provided for in chapter seven of the territorial statutes of eighteen hundred and eighty-three of said territory. *[Approved June 12, 1884.]*

And the legislature of Dakota may divide said territory into as many council and representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population (except Indians not taxed); Provided, That the number of council districts shall not exceed twenty-four, and the number of representative districts shall not exceed forty-eight. *[Part of act approved March 3, 1885.]*

SEC. 1492. The members of the legislative assemblies of New Mexico, Utah, Washington, Colorado, Dakota, Arizona and Wyoming territories shall each receive three dollars for every twenty miles' travel in going to and returning from the sessions of their respective bodies, estimated according to the nearest usually traveled route.

SEC. 1854. No member of the legislative assembly of any territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which

have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly in any territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly or shall hold any office under the government of any territory. The exception of postmasters shall not apply in the territory of Washington.

SEC. 1855. No law of any territorial legislature shall be made or enforced by which the governor or secretary of a territory, or the members or officers of any territorial legislature, are paid any compensation other than that provided by the laws of the United States.

And section eighteen hundred and sixty-one of the Revised Statutes is hereby repealed and this substituted in lieu thereof: *Provided*, That for the performance of all official duties imposed by the territorial legislatures, and not provided for in the organic act, the secretaries of the territories respectively shall be allowed such fees as may be fixed by the territorial legislatures. And in no case shall the expenditure for public printing in any of the territories exceed the sum of two thousand five hundred dollars for any one year.

SEC. 1856. Justices of the peace and all general officers of the militia in the several territories shall be elected by the people in such manner as the respective legislatures may provide by law.

Be it enacted, etc., SEC. 1. That when from any cause there shall be a vacancy in the office of justice of the peace in any of the territories of the United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such territory; *Provided*, That such appointee or person elected to fill such vacancy shall hold office only until his successor shall be regularly elected and qualified as provided by law.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed. [Approved April 16, 1880.]

SEC. 1857. All township, district and county officers except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each territory, shall appoint; but in the first instance where a new territory is hereafter created by con-

gress, the governor alone may appoint all the officers referred to in this and the preceding section, and assign them to their respective townships, districts and counties, and the officers so appointed shall hold their offices until the end of the first session of the legislative assembly.

SEC. 1858. In any of the territories, whenever a vacancy happens from resignation or death during the recess of the legislative council, in any office which under the organic act of any territory is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council.

SEC. 1859. Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens, in any territory hereafter organized, and who are actual residents of such territory at the time of the organization thereof, shall be entitled to vote at the first election in such territory and to hold any office therein, subject, nevertheless, to the limitations specified in the next section.

SEC. 1860. At all subsequent elections, however, in any territory hereafter organized by congress, as well as at all elections in territories already organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly of each territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such, and have taken an oath to support the constitution and government of the United States.

Second. There shall be no denial of the elective franchise, or of holding office, to a citizen on account of race, color or previous condition of servitude.

Third. No officer, soldier, seaman, mariner or other person in the army or navy, or attached to troops in the service of the United States, shall be allowed to vote in any territory by reason of being on service therein, unless such territory is and has been for the period of six months his permanent domicile.

Fourth. No person belonging to the army or navy shall be elected to or hold any civil office or appointment in any territory.

SEC. 1862. Every territory shall have the right to send a delegate to the house of representatives of the United States, to serve during each congress, who shall be elected by the voters in the territory qualified to elect members of the legislative assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate

shall be given accordingly. Every such delegate shall have a seat in the house of representatives, with the right of debating, but not of voting.

SEC. 1863. The first election of a delegate in any territory for which a temporary government is hereafter provided by congress, shall be held at the time and places, and in the manner the governor of such territory may direct, after at least sixty days' notice, to be given by proclamation; but at all subsequent elections therein, as well as at all elections for a delegate in organized territories, such time, places and manner of holding the election, shall be prescribed by the law of each territory.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled: That hereafter the supreme court of the territory of Dakota shall consist of a chief justice and five associate justices, any five of whom shall constitute a quorum.

SEC. 2. That it shall be the duty of the president to appoint two additional associate justices of said supreme court, in a manner now provided by law, who shall hold their office for the term of four years, and until their successors are appointed and qualified.

SEC. 3. That the said territory shall be divided into six judicial districts, and a district court shall be held in each district by one of the justices of the supreme court, at such time and place as may be prescribed by law. Each judge, after assignment, shall reside in the district to which he is assigned.

SEC. 4. That until changed by the legislative assembly of said territory, the fifth district of said territory shall consist of the following counties, namely: Brookings, Kingsbury, Beadle, Deuel, Hamlin, Grant, Codington, Clark, Day, Spink, Brown, Hand, Hyde, Hughes, Sully, Edmunds, Faulk, McPherson, Potter, Campbell, Roberts and Walworth, and the Sisseton and Wahpeton Indian reservation. And the second district and fourth district, shall consist of the remainder of the territory which now constitutes said second district and the fourth district, respectively, as defined by the statutes of said territory.

SEC. 5. That until changed by the legislature of said territory, the sixth district shall consist of the following counties, namely: Bowman, Villard, Billings, Dunn, McKenzie, Allred, Buford, Flannery, Wallace, Mountrail, Williams, Stark, Hettinger, Morton, Mercer, McLean, Stevens, Renville, Wynn, Bottineau, McHenry, Sheridan, Burleigh, Emmons, McIntosh, Logan, Kidder, Wells, DeSmet, Rolette, Towner, Benson, Foster, Stutsman, LaMoure, Dickey, Griggs, Steele and Barnes.

SEC. 6. That temporal, and until otherwise ordered by law, the additional associate justices to be appointed under this act are hereby assigned to said fifth and sixth districts, and the time and

place as now fixed by the statutes of said territory for holding court therein shall remain until changed by law.

SEC. 7. That the district court for said fifth judicial district shall have no jurisdiction to try, hear or determine any matter or cause wherein the United States is a party, and no United States grand or petit jury shall be summoned in said court, but said fifth district is hereby attached to and made a part of the second judicial district for the purpose of hearing and determining all matters and causes arising within said fifth district in which the United States is a party.

SEC. 8. That the district court for said sixth judicial district shall have and possess jurisdiction to try, hear and determine all matters and causes that the court of any district in said territory now possesses. And for such purposes two terms of said court shall be held annually in the city of Bismarck, in the county of Burleigh, and a grand and petit jury shall be summoned thereon in the manner now required by law in the United States courts in said territory.

SEC. 14. That all offenses committed before the passage of this act shall be prosecuted, tried and determined in the same manner and with the same effect, (except as to number of judges) as if this act had not been passed. [*Approved July 4, 1884.*]

And all suits or proceedings pending in the district courts of Dakota and Washington territories at the time of the passage of said act (*July 4, 1884*), and which would, if instituted after the passage of said act, be required to be brought in the new districts created and provided for in said act, may be transferred by consent of parties to said new district courts, and there disposed of in like manner and with like effect as if the same had there been instituted; and all writs and recognizances relating to such suits and proceedings so transferred shall be considered as belonging to the courts of the said new districts, respectively, in the same manner and with like effect as if they had issued or had been taken in reference thereto originally. [*Part of act approved March 3, 1885.*]

SEC. 1866. The jurisdiction, both appellate and original, of the courts provided for in sections 1907 and 1908, shall be limited by law.

SEC. 1907. The judicial power in New Mexico, Utah, Washington, Colorado, Dakota, Idaho, Montana and Wyoming shall be vested in a supreme court, district courts, probate courts, and in justices of the peace.

SEC. 1867. No justices of the peace in any territory shall have jurisdiction of any case in which the title to land, or the boundary thereof, in anywise comes in question.

SEC. 1926. Justices of the peace in the territories of New Mexico, Utah, Washington, Dakota, Idaho, Montana and Wyoming

shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds one hundred dollars.

SEC. 1868. The supreme court and district courts, respectively, of every territory, shall possess chancery as well as common law jurisdiction.

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Be it enacted, etc., That it shall not be necessary in any of the courts of the several territories of the United States to exercise separately the common law and chancery jurisdictions vested in said courts; and that the several codes and rules of practice adopted in said territories respectively, in so far as they authorize a mingling of said jurisdictions or a uniform course of proceeding in all cases, whether legal or equitable, be confirmed; and that all proceedings heretofore had or taken in said courts in conformity with said respective codes and rules of practice, so far as relates to the form and mode of proceeding be, and the same are hereby validated and confirmed; *Provided*, that no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law.

SEC. 2. That the appellate jurisdiction of the supreme court of the United States over the judgments and decrees of said territorial courts in cases of trial by jury, shall be exercised by writ of error, and in all other cases by appeal according to such rules and regulations as to form and modes of proceedings as the said supreme court have prescribed or may hereafter prescribe; *Provided*, That an appeal instead of the evidence at large, a statement of the facts of the case in the nature of a special verdict, and also the rulings of the court on the admission or rejection of evidence when excepted to, shall be made and certified by the court below, and transmitted to the supreme court, together with the transcript of the proceedings and judgment or decree; but no appellate proceedings in said supreme court heretofore taken upon any judgment or decree shall be invalidated by reason of being instituted by writ of error or by appeal; and *provided further*, That the appellate court may make any order in any case heretofore appealed, which may be necessary to save the rights of the parties, and that this act shall not apply to cases now pending in the supreme court of the United States, where the record has already been filed. [Approved April 7, 1874.]

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SEC. 1869. Writs of error, bills of exception, and appeals shall be allowed, in all cases, from the final decisions of the district courts to the supreme court, of all the territories, respectively, under such regulation as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in that court.

SEC. 1909. Writs of error and appeal from the final decisions of the supreme court of either of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming,

shall be allowed to the supreme court of the United States, in the same manner, and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath of either party, or of other competent witnesses, exceeds one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the supreme courts created by this title, or of any judge thereof, or of the district courts created by this title, or of any judge thereof, upon writs of *habeas corpus* involving the question of personal freedom.

SEC. 1910. Each of the district courts in the territories mentioned in the preceding section shall have and exercise the same jurisdiction in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the first six days of every term of the respective district courts, or so much thereof as is necessary, shall be appropriated to the trial of causes arising under such constitution and laws, but writs of error and appeals in all such cases may be had to the supreme court of each territory, as in other cases.

SEC. 1870. The supreme court of each territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed.

SEC. 1871. Each judge of the supreme court of the respective territories shall designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and shall designate and retain but one such clerk where more than one is already appointed, and only such district clerk shall be entitled to a compensation from the United States.

SEC. 1918. The legislative assemblies of New Mexico, Washington, Colorado, Dakota, Arizona and Wyoming territories may assign the judges appointed for such territories, respectively, to the several judicial districts thereof, in such manner as each legislative assembly deems proper and convenient.

SEC. 1919. The legislative assemblies of Colorado, Dakota and Wyoming territories may fix or alter the times and places of holding the district courts for such territories, respectively, in such manner as such legislative assembly deems proper and convenient.

SEC. 1874. The judges of the supreme court of each territory are authorized to hold court within their respective districts, in the counties wherein, by the laws of the territory, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expense of holding such courts shall be paid by the territory or by the counties in which the courts are held, and the United States shall in no case be chargeable therewith.

SEC. 1875. There shall be appointed in each territory a per-

son learned in the law to act as attorney for the United States. He shall continue in office for four years and until his successor is appointed and qualified, unless sooner removed by the president.

SEC. 1876. There shall be appointed a marshal for each territory. He shall execute all process issuing from the territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties and be subject to the regulations and penalties imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by the president.

SEC. 1877. The governor, secretary, chief justice and associate justices, attorney and marshal of every territory shall be nominated, and by and with the advice and consent of the senate, appointed by the president.

SEC. 1878. The governor and secretary for each territory shall, before they act as such, respectively take an oath before the district judge or some justice of the peace in the limits of the territory for which they are appointed, duly authorized to administer oaths by the laws in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States and faithfully to discharge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken, and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices and all other civil officers appointed for any territory, before they act as such, shall take a like oath before the governor or secretary or some judge or justice of the peace of the territory, who may be duly commissioned and qualified, and such oath shall be certified and transmitted by the person taking the same, to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new territory, as well as in all organized territories, the like oath shall be taken, certified and recorded in such manner and form as may be prescribed by the law of each territory.

* * *

Hereafter payment of salaries of all officers of the territories of the United States, appointed by the president, shall commence only when the person appointed to any such office shall take the proper oath and shall enter upon the duties of such office in such territory. And said oath shall hereafter be administered in the territory in which such office is held. [Part of act approved May 1, 1876.]

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SEC. 1879. The annual salary of the chief justice and associate justices of all the territories now organized shall be three thousand dollars each.

SEC. 1880. The salary of the attorney of the United States for each territory shall be at the rate of two hundred and fifty dollars annually.

SEC. 1881. The salary of the marshal of the United States for each territory shall be at the rate of two hundred dollars a year.

SEC. 1882. The salaries provided for in this title, to be paid to the governor, secretary, chief justices and associate justices, district attorney and marshal of the several territories, shall be paid quarter-yearly at the treasury of the United States.

SEC. 1935. There shall be appropriated annually one thousand dollars, to be expended by the respective governors, to defray the contingent expenses of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming, including the salary of the clerk in the executive departments of those territories.

SEC. 1883. The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses, commissioners and printers in the territories of the United States shall be the same for similar services by such persons as prescribed in chapter 16, title "The Judiciary," and no other compensation shall be taxed or allowed.

SEC. 1884. When any officer of a territory is absent therefrom and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the president, who shall officially certify his opinion of such cause to the proper accounting officer of the treasury, to be filed in his office.

SEC. 1886. All accounts for disbursements in the territories of the United States, of money appropriated by congress for the support of government therein, shall be settled and adjusted at the treasury department; and no act, resolution or order of the legislature of any territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the accounting officers of the treasury. No payment shall be made or allowed unless the secretary of the treasury has estimated therefor and the object been approved by congress. No session of the legislature of a territory shall be held until the appropriation for its expenses has been made.

SEC. 1939. There shall be appropriated respectively for the territories of New Mexico, Utah, Colorado, Dakota, Arizona and Wyoming annually a sufficient sum, to be expended by the secretary of each territory herein named, upon an estimate to be made by the secretary of the treasury, to defray the expenses of the legislative assembly and other incidental expenses; and the secretary of each territory above specified shall annually account to the secretary of the treasury for the manner in which such sum has been expended.

SEC. 1888. No legislative assembly of a territory shall in any

instance, or under any pretext, exceed the amount appropriated by congress for its annual expenses.

* * *

SEC. 1889. The legislative assemblies of the several territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, banking manufacturing or other industrial pursuits, or the construction and operation of railroads, wagon roads, canals, or irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association.

* * *

Be it enacted, etc., That the words "the legislative assemblies of the several territories shall not grant private charters or especial privileges" in section eighteen hundred and eighty-nine of the revised statutes of the United States, shall not be construed as prohibiting the legislative assemblies of the several territories of the United States from creating towns, cities, or other municipal corporations, and providing for the government of the same, and conferring upon them the corporate powers and privileges, necessary to their local administration, by either general or special acts; and that all general and special acts of such legislative assemblies heretofore passed creating and providing for the government of towns, cities or other municipal corporations, and conferring such rights, powers and privileges upon the same, as were necessary to their local administration, be, and the same are hereby, ratified and confirmed and declared to be valid, any law to the contrary notwithstanding, subject, however, to amendment or repeal hereafter by such territorial assemblies. But nothing herein shall have the effect to create any private right, except that of holding and executing municipal offices, or to divest any such right, or to make valid or invalid any contract or obligation heretofore made by or on behalf of any such town, city, or other municipal corporation, or to authorize any such corporation to incur hereafter any debt or obligation other than such as shall be necessary to the administration of its internal affairs. [Approved, June 8, 1878.]

* * *

SEC. 1890. No corporation or association for religious or charitable purposes shall acquire or hold real estate in any territory, during the existence of the territorial government, of a greater value than fifty thousand dollars; and all real estate acquired or held by such corporation or association contrary hereto, shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section.

SEC. 1891. The constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within all the organized territories, and in every territory hereafter organized, as elsewhere within the United States.

SEC. 1892. Any penitentiary which has been, or may hereafter be, erected by the United States in an organized territory, shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States, for the territory or district in which such penitentiary is situated, except as otherwise provided in the case of the penitentiaries in Montana, Idaho, Wyoming and Colorado.

SEC. 1893. The attorney general of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and of his deputies for their services under such regulations shall be fixed by the attorney general.

SEC. 1894. The compensation, as well as the expense incident to the subsistence and employment of offenders against the laws of the United States, who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable on, and payable out of, the fund for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States; but nothing herein shall be construed to increase the maximum compensation now allowed by law to those officers.

SEC. 1895. Any person convicted by a court of competent jurisdiction in a territory for a violation of the laws thereof, and sentenced to imprisonment may, at the cost of such territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted, and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offense against the laws of the United States.

* * *

That the legislative assemblies of the several territories of the United States may make such provision for the care and custody of such persons as may be convicted of crime under the laws of such territory as they shall deem proper, and for that purpose may authorize and contract for the care and custody of such convicts in any other territory or state, and provide that such person or persons may be sentenced to confinement accordingly, in such other territory or state, and all existing legislative enactments of any of the territories for that purpose are hereby legalized; *Provided*, That the expense of keeping such prisoners shall be borne by the respective territories, and no part thereof shall be borne by the United States. [Part of act approved June 16, 1880.]

* * *

SEC. 1944. The seat of Government of the territories of New Mexico, Utah, Washington, Colorado, Dakota, Arizona and Wyoming may be changed by the governors and legislative assemblies thereof, respectively.

SEC. 1946. Sections numbered 16 and 36 in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming shall be reserved for the purpose of being applied to schools in the several territories herein named, and in the states and territories hereafter to be erected out of the same.

That if any timber cut on the public lands shall be exported from the territories of the United States, it shall be liable to seizure by United States authority, wherever found. [Part of Act approved April 30, 1878.]

Resolved, etc., That the secretary of war is hereby authorized to cause to be issued to the territories, and the states bordering thereon, such arms as he may deem necessary for their protection, not to exceed one thousand to said states each; Provided, That such issues shall only be from arms owned by the government, which have been superseded and no longer issued to the army; Provided, however, That said arms shall be issued only in the following manner and upon the following conditions, namely: Upon the requisition of the governors of said states or territories, showing the absolute necessity of arms for the protection of the citizens and their property against Indian raids into said states or territories; also that militia companies are regularly organized and under control of the governors of said states or territories, to whom said arms are to be issued, and that said governor or governors shall give a good and sufficient bond for the return of said arms or the payment of the same at such time as the secretary of war may designate. [Resolution approved July 3, 1876.]

Resolved, etc., That the joint resolution approved July third, eighteen hundred and seventy-six, authorizing the secretary of war to issue arms to the territories and the states bordering thereon, be and the same is hereby amended by inserting after the words "each of said territories," the words "and ammunition for the same, not to exceed fifty ball cartridges for each arm." [Approved, March 3, 1877.]

Be it enacted, etc., That a joint resolution, approved July third, eighteen hundred and seventy-six, entitled "Joint resolution authorizing the secretary of war to issue arms," be amended as follows: By inserting in the fifth line, after the word "states," and before the word "each," the words "and territories," and by striking out after the word "each," in said fifth line, and before the word "provided," in sixth line, the words "and not more than five hundred to each of said territories;" Provided, That the quota to the states now authorized by law shall not hereby be diminished. [Approved, May 16, 1878.]

Be it resolved, etc., That the secretary of war is hereby authorized to cause to be issued to each of the territories of the United States (in addition to arms and ammunition, the issue of which

has been heretofore provided for), such arms, not to exceed one thousand in number, as he may deem necessary, and ammunition for the same, not to exceed fifty ball cartridges for each arm; *Provided*, That such issue shall be only from arms owned by the government of the United States which have been superseded and no longer issued to the army; *And provided, further*, That said arms shall be issued only in the following manner and upon the following conditions, namely: Upon the requisition of the governors of said territories, showing the absolute necessity for arms for the protection of citizens and their property against hostile Indians within, or of Indian raids into such territories; *And provided, further*, That the said governor or governors of said territories to whom the said arms may be issued, shall give good and sufficient bond or bonds for the return of said arms, or payment therefor, at such time as the secretary of war may designate, as now provided for by law. [Approved, June 7, 1878.]

* * *

Be it enacted, etc., That all inclosures of any public lands in any state or territory of the United States, heretofore or to be hereafter made, erected or constructed by any person, party, association or corporation, to any of which land included within the inclosure the person, party, association or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States, at the time any such inclosure was or shall be made, are hereby declared to be unlawful, and the maintenance, erection, construction or control of any such inclosure is hereby forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States, in any state or any of the territories of the United States, without claim, color of title or asserted right as above specified as to inclosure, is likewise declared unlawful and hereby prohibited.

SEC. 2. That it shall be the duty of the district attorney of the United States for the proper district, on affidavit filed with him by any citizen of the United States that section one of this act is being violated, showing a description of the land enclosed with reasonable certainty, not necessarily by meets and bounds, nor by governmental subdivisions of surveyed lands, but only so that the enclosure may be identified, and the persons guilty of the violation, as nearly as may be, and by description if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district or circuit court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of, as defendants; and jurisdiction is also hereby conferred on any United States district or circuit court or territorial district court having jurisdiction over the lo-

cality where the land enclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this act; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment or decree for the destruction of the inclosure in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

SEC. 3. That no person, by force, threats, intimidation or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands; *Provided*, This section shall not be held to affect the right or title of persons who have gone upon, improved or occupied said lands under the land laws of the United States, claiming title thereto in good faith.

SEC. 4. That any person violating any of the provisions hereof, whether as owner, part owner, agent, or who shall aid, abet, counsel, advise or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding one thousand dollars and be imprisoned not exceeding one year for each offense.

SEC. 5. That the president is hereby authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of said lands, and to employ civil or military force, as may be necessary for that purpose.

SEC. 6. That where the alleged unlawful inclosure includes less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this act without authority from the secretary of the interior.

SEC. 7. That nothing herein shall affect any pending suits to work their discontinuance, but as to them hereafter they shall be prosecuted and determined under the provisions of this act. *[Approved, Feb. 25, 1885.]*

**

Be it enacted, etc., That no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars.

SEC. 2. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States; but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute. [Approved March 3, 1885.]

Be it enacted, etc., That all general laws heretofore enacted by the legislative assembly of the territory of Dakota, providing for the incorporation of insurance companies are hereby legalized and made valid, and are declared to have the same force and effect as if the said legislative assembly had had full power and authority to enact the same; and all insurance companies incorporated under said laws and in accordance therewith are hereby declared to have been legally incorporated. [Approved June 30, 1886.]

Be it enacted, etc., That no lands granted to any railroad corporation by any act of congress shall be exempt from taxation by states, territories and municipal corporations on account of the lien of the United States upon the same for the costs of surveying, selecting and conveying the same, or because no patent has been issued therefor; but this provision shall not apply to lands unsurveyed; *Provided*, That any such land sold for taxes shall be taken by the purchaser subject to the lien for costs of surveying, selecting and conveying, to be paid in such manner by the purchaser as the secretary of the interior may by rule provide, and to all liens of the United States, all mortgages of the United States, and all rights of the United States, in respect of such lands; *Provided further*, That this act shall apply only to lands situated opposite to and co-terminous with completed portions of said roads, and in organized counties; *Provided further*, That at any sale of lands under the provisions of this act, the United States may become a preferred purchaser, and in such case the lands sold shall be restored to the public domain and disposed of as provided by the laws relating thereto.

SEC. 2. That if any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or for its use and benefit by act of congress shall for thirty days neglect or refuse to pay any such costs after demand for payment thereof by the secretary of the interior, he shall notify the attorney general, who shall at once commence proceedings to collect the same. But when any sum shall be collected of such railroad company as costs of surveying, selecting, and conveying any tract of land which shall have been purchased under the provisions of section one hereof, the secretary of the interior shall out of such collections reimburse said purchaser, his heirs or assigns, the amount of money paid by him as the costs of such surveying, selecting and conveying.

SEC. 3. That this act shall not affect the right of the govern-

ment to delare or enforce a forfeiture of any lands so granted; but all the rights of the United States to said lands or to any interest therein shall be and remain as if this act had not passed, except as to the lien mentioned in the first section hereof.

SEC. 4. That section twenty-one of chapter two hundred and sixteen, approved July second, eighteen hundred and sixty-four, is hereby so amended as that the costs of surveying, selecting and conveying therein required to be paid shall become due and payable at and on the demand therefor made by the secretary of the interior as provided in section two of this act, and nothing in this act shall be construed or taken in anywise to affect or impair the right of congress at any time hereafter further to alter, amend, or repeal the said act, as in the opinion of congress, justice or the public welfare may require, or to impair or waive any right or remedy in the premises now existing in favor of the United States. This act shall be subject to alteration, amendment or repeal.
[Approved, July 10, 1886.]

* * *

Be it enacted, etc., That the legislatures of the territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say:

Granting divorces.

Changing the names of persons or places.

Laying out, opening, altering and working roads or highways.

Vacating roads, town plats, streets, alleys and public grounds.

Locating or changing county seats.

Regulating county and township affairs.

Regulating the practice in courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village.

For the punishment of crimes or misdemeanors.

For the assessment and collection of taxes for territorial, county, township or road purposes.

Summoning and empaneling grand or petit jurors.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening and conducting of any election or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game or fish.

Chartering or licensing ferries or toll bridges.

Remitting fines, penalties or forfeitures.

Creating, increasing or decreasing fees, percentage or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted in any of the territories of the United States by the territorial legislatures thereof.

SEC. 2. That no territory of the United States now or hereafter to be organized, or any political or municipal corporation or subdivision of any such territory shall hereafter make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of any such company or association, or borrow any money for the use of any such company or association.

SEC. 3. That no law of any territorial legislature shall authorize any debt to be contracted by or on behalf of such territory except in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable or educational institutions for such territory, if the total indebtedness of the territory is not thereby made to exceed one per centum upon the assessed value of the taxable property in such territory as shown by the last general assessment for taxation. And nothing in this act shall be construed to prohibit the refunding of any existing indebtedness of such territory or of any political or municipal corporation, county or other sub-division therein.

SEC. 4. That no political or municipal corporation, county or other subdivision in any of the territories of the United States shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding four per centum on the value of the taxable property within such corporation, county or subdivision, to be ascertained by the last assessment for territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void. That nothing in this act contained shall be so construed as to affect the validity of any act of any territorial legislature heretofore enacted, or of any obligations existing or contracted thereunder, nor to preclude the issuing of bonds already contracted for in pursuance of express provisions of law; nor to prevent any territorial legislature from legalizing the acts of any county, municipal corporation or subdivision of any territory as to any bonds heretofore issued or contracted to be issued.

SEC. 5. That section eighteen hundred and eighty-nine, title twenty-three of the revised statutes of the United States be amended to read as follows:

"The legislative assemblies of the several territories shall not grant private charters or special privileges, but they may by general incorporation acts permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposit (but not of issue) loan, trust, and guarantee associations, and for the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches libraries, or any other benevolent, charitable, or scientific association.

SEC. 6. That nothing in this act contained shall be construed to abridge the power of congress to annul any law passed by a territorial legislature, or to modify any existing law of congress requiring in any case that the laws of any territory shall be submitted to congress.

SEC. 7. That all acts and parts of acts hereafter passed by any territorial legislature in conflict with the provisions of this act shall be null and void. [Approved, July, 30, 1886.]

Be it enacted, etc., That the nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the military and naval schools, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of text-books in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the Territories in the military and naval academies of the United States and in the District of Columbia and in all Indian and colored schools in the Territories of the United States.

SEC. 2. That it shall be the duty of the proper officers in control of any school described in the foregoing section to enforce the provisions of this act; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this act or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by the first section of this act, for all pupils in each and every school under his jurisdiction, shall be removed from office and the vacancy filled as in other cases.

SEC. 3. That no certificate shall be granted to any person to teach in the public schools of the District of Columbia or Territories, after the first day of January, anno Domini eighteen hundred and eighty-eight, who has not passed a satisfactory examina-

tion in physiology and hygiene, with special reference to the nature and effects of alcoholic drinks and other narcotics upon the human system. [Approved, May 20, 1886.]

* * *

Be it enacted etc., That the secretary of war be, and he is hereby directed to cause the Territory of Dakota to be credited on its ordnance account with the sum of twenty-seven thousand six hundred and fifty dollars, upon the delivery to the United States, at such place as the secretary of war may direct, of all such arms and other ordnance stores remaining in the custody of said Territory, of the issues thereof under said act. [Approved, February 28, 1887.]

* * *

Be it Enacted, etc., That it shall be unlawful for any person or persons, not citizens of the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States, or of some state or territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the territories of the United States or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created; *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer.

SEC. 2. That no corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations, not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in any of the territories of the United States or of the District of Columbia.

SEC. 3. That no corporation other than those organized for the construction or operation of railways, canals, or turnpikes shall acquire, hold or own more than five thousand acres of land in any of the territories of the United States; and no railroad, canal, or turnpike corporation shall hereafter acquire hold, or own lands in any territory, other than as may be necessary for the proper operation of its railroad, canal, or turnpike, except such lands as may have been granted to it by act of Congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

SEC. 4. That all property acquired, held or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney General to enforce every such forfeiture by bill in equity or other proper process. And in

any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned. [Approved, March 3, 1887.]

* * *

Be it enacted etc., That whoever commits adultery shall be punished by imprisonment in the penitentiary not exceeding three years; and when the act is committed between a married woman and a man who is unmarried, both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man shall be deemed guilty of adultery.

SEC. 4. That if any person related to another person within and not including the fourth degree of consanguinity computed according to the rules of the civil law, shall marry or cohabit with, or have sexual intercourse with such other so related person knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and on conviction thereof, shall be punished by imprisonment in the penitentiary not less than three years and not more than fifteen years.

SEC. 5. That if an unmarried man or woman commit fornication, each of them shall be punished by imprisonment not exceeding six months, or by fine not exceeding one hundred dollars.

SEC. 9. That every ceremony of marriage, or in the nature of a marriage ceremony, of any kind, in any of the territories of the United States, whether either or both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest and person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony and by every officer, priest and person taking part in the performance of such ceremony, and shall be by the officer, priest or other person solemnizing such marriage or ceremony filed in the office of the probate court, or, if there be none, in the office of court having probate powers in the county or district in which such ceremony shall take place, for record, and shall be immediately recorded, and be at all times subject to inspection as other public records. Such certificate, or the record thereof, or a duly certified copy of such record, shall be *prima facie* evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. Any person who shall wilfully violate any of the provisions of this section shall be deemed guilty of a misde-

meanor, and shall, on conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court.

SEC. 10. That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible for that purpose. [Part of act, becoming a law March 3, 1887.]

* * *
Be it enacted etc. SEC. 26. That all religious societies, sects and congregations shall have the right to have and to hold through trustees appointed by any court exercising probate powers in a territory, only on the nomination of the authorities of such society, sect or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect or congregation. [Part of act, becoming a law March 3, 1887.]

* * *
Be it enacted, etc., That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of congress or executive order setting apart the same for their use, the president of the United States be, and he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the president directing an allotment of the lands embraced in any reservation, one-sixteenth of a section; *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act; *And provided further*, That where the treaty or act of congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the president, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such

treaty or act; *And provided further*, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the president shall direct that allotments may be made on a particular reservation, the secretary of the interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which election shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. That the allotments provided for in this act shall be made by special agents appointed by the president for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the secretary of the interior may from time to time prescribe, and shall be certified by such agents to the commissioner of Indian affairs, in duplicate, one copy to be retained in the Indian office and the other to be transmitted to the secretary of the interior for his action, and to be deposited in the general land office.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office of the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any

moneys in the treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the commissioner of the general land office, and a certification of such account to the secretary of the treasury by the secretary of the interior.

SEC. 5. That upon the approval of the allotments provided for in this act by the secretary of the interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the state or territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever; *Provided*, That the president of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void; *Provided*, That the law of descent and partition in force in the state or territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the state of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the president it shall be for the best interests of said tribe, it shall be lawful for the secretary of the interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by congress, and the form and manner of executing such release shall also be prescribed by congress; *Provided however*, That all lands adapted to agriculture, with or without irrigation, so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers, and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as congress shall prescribe, subject to grants which congress may

make in aid of education; *And provided further*, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years' occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent. per annum, shall be at all times subject to appropriation by congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the general land office, and afterward delivered, free of charge to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the secretary of the interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

SEC. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the state or territory in which they may reside; and no territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of

the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.
[Part of act approved, February 8, 1887.]

Be it enacted, etc., That in order to aid in acquiring and diffusing among the people of the United States useful and practical information on subjects connected with agriculture, and to promote scientific investigation and experiment respecting the principles and application of agricultural science, there shall be established, under direction of the college or colleges or agricultural department of colleges in each state or territory established, or which may hereafter be established, in accordance with the provisions of an act approved July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," or any of the supplements to said act, a department to be known and designated as an "agricultural experiment station;" *Provided*, That in any state or territory in which two such colleges have been or may be so established the appropriation hereinafter made to such state or territory shall be equally divided between such colleges, unless the legislature of such state or territory shall otherwise direct.

SEC. 2. That it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals; the diseases to which they are severally subject, with the remedies for the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative cropping as pursued under a varying series of crops; the capacity of new plants or trees for acclimation; the analysis of soils and water; the chemical composition of manures, natural or artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese; and such other researches or experiments bearing directly on the agricultural industry of the United States as may in each case be deemed advisable, having due regard to the varying conditions and needs of the respective states or territories.

SEC. 3. That in order to secure, as far as practicable, uniformity of methods and results in the work of said stations, it shall be the duty of the United States commissioner of agriculture to furnish forms, as far as practicable, for the tabulation of results of investigation or experiments; to indicate, from time to time, such lines of inquiry as to him shall seem most important; and, in general, to furnish such advice and assistance as will best promote the purposes of this act. It shall be the duty of each of

said stations, annually, on or before the first day of February, to make to the governor of the state or territory in which it is located a full and detailed report of its operations, including a statement of receipts and expenditures, a copy of which report shall be sent to each of said stations, to the said commissioner of agriculture, and to the secretary of the treasury of the United States.

SEC. 4. That bulletins or reports of progress shall be published at said stations at least once in three months, one copy of which shall be sent to each newspaper in the states or territories in which they are respectively located, and to such individuals actually engaged in farming as may request the same, and as far as the means of the station will permit. Such bulletins or reports and the annual reports of said stations shall be transmitted in the mails of the United States free of charge for postage, under such regulations as the postmaster-general may from time to time prescribe.

SEC. 5. That for the purpose of paying the necessary expenses of conducting investigations and experiments and printing and distributing the results as hereinbefore prescribed, the sum of fifteen thousand dollars per annum is hereby appropriated to each state, to be specially provided for by congress in the appropriations from year to year, and to each territory entitled under the provisions of section eight of this act, out of any money in the treasury proceeding from the sales of public lands, to be paid in equal quarterly payments, on the first day of January, April, July and October in each year, to the treasurer or other officer duly appointed by the governing boards of said colleges to receive the same, the first payment to be made on the first day of October, eighteen hundred and eighty-seven: *Provided, however,* That out of the first annual appropriation so received by any station an amount not exceeding one-fifth may be expended in the erection, enlargement, or repair of a building or buildings necessary for carrying on the work of such station; and thereafter an amount not exceeding five per centum of such annual appropriation may be so expended.

SEC. 6. That whenever it shall appear to the secretary of the treasury from the annual statement of receipts and expenditures of any of said stations that a portion of the preceding annual appropriation remains unexpended, such amount shall be deducted from the next succeeding annual appropriation to such station, in order that the amount of money appropriated to any station shall not exceed the amount actually and necessarily required for its maintenance and support.

SEC. 7. That nothing in this act shall be construed to impair or modify the legal relation existing between any of the said colleges and the government of the states or territories in which they are respectively located.

SEC. 8. That in states having colleges entitled under this sec-

tion to the benefits of this act and having also agricultural experiment stations established by law separate from said colleges, such states shall be authorized to apply such benefits to experiments at stations so established by such states; and in case any state shall have established under the provisions of said act of July second aforesaid, an agricultural department or experimental station, in connection with any university, college or institution not distinctively an agricultural college or school, and such state shall have established or shall hereafter establish a separate agricultural college or school, which shall have connected therewith an experimental farm or station, the legislature of such state may apply in whole or in part the appropriation by this act made, to such separate agricultural college, or school, and no legislature shall by contract express or implied disable itself from so doing.

SEC. 9. That the grants of moneys authorized by this act are made subject to the legislative assent of the several states and territories to the purposes of said grants; *Provided*, That payment of such installments of the appropriation herein made as shall become due to any state before the adjournment of the regular session of its legislature meeting next after the passage of this act shall be made upon the assent of the governor thereof duly certified to the secretary of the treasury.

SEC. 10. Nothing in this act shall be held or construed as binding the United States to continue any payments from the treasury to any or all the states or institutions mentioned in this act, but congress may at any time amend, suspend or repeal any or all the provisions of this act. [Approved, March 2, 1887.]

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AUTHENTICATION.

TERRITORY OF DAKOTA, }
Secretary's Office, Bismarck. }

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills, passed by the Legislative Assembly, at the seventeenth session thereof, begun and held at Bismarck, January 11, A. D. 1887, now on file in this office, with the exception of clerical errors appearing enclosed in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
[L. S.] affixed the Great Seal of the Territory of Dakota, this
13th day of June, A. D. 1887.

M. L. McCORMACK,
Secretary of the Territory of Dakota.

GENERAL LAWS.

ABSTRACTS.

CHAPTER 1.

COUNTY TREASURERS TO CERTIFY TO ABSTRACTS OF TITLE.

AN ACT Making it the Duty of County Treasurers to Certify to Abstract of Title to Real Estate with Reference to Taxes Affecting Property set forth in Abstract.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. DUTY OF COUNTY TREASURER—COMPENSATION.] That it is hereby made the duty of each county treasurer of the county where the property is situated to attach his certificate to each and all abstracts of title to real estate that may be presented to him for that purpose, which certificate shall show the amount of due and unpaid taxes against, or tax title affecting, the land described in such abstract, as the same shall appear from the records in his office, and for compensation therefor he shall receive the sum of twenty-five cents for each abstract so certified, and for each failure or refusal to comply with the provisions of this act he shall be liable to a fine not to exceed the sum of one hundred dollars.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 17, 1887.

ACKNOWLEDGMENTS OF DEEDS.

CHAPTER 2.

PRESCRIBING FORM FOR DEPUTY SHERIFFS.

AN ACT Prescribing a Form for the Acknowledgment of Deeds and Other Instruments, and to Legalize Acknowledgments heretofore made by Deputy Sheriffs.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FORM OF ACKNOWLEDGMENT] That all acknowledgments of deeds or other instruments in writing, made by any deputy sheriff of Dakota Territory, shall be made substantially according to the following form:

TERRITORY OF DAKOTA, } ss.
COUNTY OF.....

On this day of in the year before me, a in and for said county, personally appeared known to me to be the person who is described in and whose name is subscribed to, the within instrument, as deputy sheriff of said county, and acknowledged to me that he subscribed the name of thereto as sheriff of said county, and his own name as deputy sheriff.

§ 2. PREVIOUS ACTS LEGALIZED.] That all acknowledgments heretofore made by any deputy sheriff of the several counties of this territory, either by or for himself as such deputy, or in the name of or for his principal, to any sheriff's certificate of sale, certificate of redemption, or sheriff's deed, or other instrument appertaining to the sale, redemption or conveyance, of any real estate sold at sheriff's sale, upon execution or by foreclosure, either by action or advertisement, shall and the same is hereby declared to be legal and of binding force and effect.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

AGRICULTURE.

CHAPTER 3.

ESTABLISHING TERRITORIAL DEPARTMENT OF AGRICULTURE— TWO DISTRICTS.

AN ACT To Amend an act Entitled "An act to Create a Territorial Department of Agriculture and Relating to Agricultural Societies and Agricultural Fairs, and Providing for Reports of the Same.

Be it Enacted by the Legislative Assembly of the Territory of Dakota: That said act be and is hereby amended to read as follows:

§ 1. DEPARTMENT OF AGRICULTURE CREATED—TWO DISTRICTS.] There is hereby created a Department of Agriculture, for the promotion of agriculture and horticulture, manufactures and domestic arts, which said department shall be divided into two districts, and shall be managed by boards styled district boards of agriculture, to consist of one person from each legislative district within the limits of the agricultural districts herein-after defined, and who shall be first appointed, by the governor, for the second district and for the year 1887; the persons composing the present board of agriculture who reside within the said first district, shall continue as the board of agriculture for said first district, and thereafter according to the provisions of this act. The board for district number one shall meet at Huron on the 29th day of March, 1887. And the board of district number two shall meet at Fargo on the twenty-ninth day of March, 1887, for the election of officers and for the locating of annual fairs, and annually thereafter on the fair grounds on the Wednesday, of the week of the annual district fairs. The members of said district boards shall be chosen as follows, by delegates or alternates, or the written proxies thereof, of their respective legislative districts, chosen by the several agricultural societies in counties where such societies exist in the following manner, to-wit: In counties having one agricultural society, such county may appoint three delegates; in counties having two agricultural societies, each society may appoint one delegate, who shall be entitled to one and one-half votes; in counties having three agricultural societies, each

society may appoint one delegate, and if either society shall neglect or refuse to appoint such delegate, the delegate or delegates appointed shall be entitled to cast the full vote of the county; and in counties where no agricultural society exists the delegates may be appointed by the board of supervisors or county board, as the case may be, each county to be entitled to three votes and no more, and each union or district agricultural society shall be accredited to that county in which its fair grounds or the greater part thereof shall be located. The members of said district boards shall enter upon the duties of their office on the second Tuesday of January succeeding their election, and hold office for one year and until their successors are elected and qualified. The district boards may fill any vacancy arising from any cause by appointment, from the district in which the vacancy may occur. All that portion of the Territory of Dakota lying south of the Seventh standard parallel shall be styled and known as district number one, and all that portion of the territory of Dakota lying north of said parallel shall be styled and known as district number two.

§ 2. SECRETARY.] Each district board shall appoint some person, not a member of the board, secretary, and fix his compensation, said compensation not to exceed two hundred dollars per annum, who shall hold his office during the term for which the members of the board appointing him are elected, unless for good cause he shall sooner be removed by the board, and who shall perform such duties as usually pertain to the office of secretary or as shall be required of him by the district board.

§ 3. TREASURER.] Each district board shall also appoint some person, not a member of the board, as treasurer, and fix his compensation, said compensation not to exceed one hundred dollars per annum, who shall give bond in such sum and with such security as the board shall direct, conditioned for the faithful discharge of the duties of his office. He shall hold his office during the term for which the members of the board appointing him are elected, unless for good cause he shall sooner be removed by the board. He shall keep an accurate itemized account of all money received by him and paid out, and make an annual report thereof to the district board, and make full settlement with the board.

§ 4. OFFICES.] The district boards shall keep offices for the transaction of business at places located by said boards at their annual meeting.

§ 5. POWERS OF DISTRICT BOARDS.] The district boards of agriculture in their respective names may contract and be contracted with; may purchase, hold or sell property; may sue or be sued in all courts or places; may hold district fairs and fat stock shows, at such times and places as the boards may determine, but this Territory shall never be liable for any debt or contract of said board.

§ 6. BOARDS HAVE CONTROL] The district boards of ag-

riculture shall have the sole control of the affairs of the Department of Agriculture, of all district fairs, and fat stock shows, and may make such by-laws and rules and regulations in relation to the Department of Agriculture and the management of the business of such department, and district fairs, and fat stock shows, and offering of premiums, as a majority of said board shall from time to time determine, not inconsistent with the constitution and laws of the Territory, or of the United States.

§ 7. **MONEYS APPROPRIATED.**] There shall be and is hereby annually appropriated out of any moneys in the treasury not otherwise appropriated, the sum of six thousand dollars, which said sum shall be paid in equal moieties to the district boards of agriculture, and which shall be used only in the payment of premiums and expenses contingent upon the holding of annual fairs. *Provided*, That nothing in this act shall be construed to authorize the expenditure of any of said moneys for the purchase of real estate, or the erection of any building or buildings.

§ 8. **ANNUAL REPORTS.**] The district boards of agriculture shall hold an annual meeting on the first Tuesday in December, and within ten days thereafter make and deliver to the Governor a report of their acts and doings, as required by law, and no other annual report shall be made by said boards.

§ 9. **REPORTS OF KINDRED ASSOCIATIONS.**] Said district boards of agriculture shall append to and publish with their respective reports the annual report of the Territorial Entomologist and such other reports or essays connected with agriculture, horticulture, manufactures or the domestic arts as in the judgment of the said board the interests of the Territory require; said annual report and appended essays not to exceed seven hundred printed pages, and one thousand copies of said report shall be published annually in pamphlet form by the Public Printer of the Territory at the contract rates, and the same shall be distributed jointly by the presidents of the respective district boards and the President of the Territorial Horticultural and Forestry Association, and a sufficient amount of money is hereby appropriated out of the Territorial Treasury to pay for publishing the same.

§ 10. **ANNUAL FAIRS—SPECIAL POLICE.**] It shall be lawful for the district boards of agriculture or other agricultural society at or before the time for holding its annual fair or fairs, to select and appoint as many persons to act in the capacity of special police as are by said societies deemed requisite to insure peace and good order on or about the grounds or place of holding such fair, for and during the holding of the same; *Provided*, That such person before entering upon the duties of special police shall receive his authority from, and take the oath of office before, any judge or justice of the peace or other officer authorized to administer oaths, residing or holding his office in the town or municipal corporation most contiguous to the fair grounds or place of holding

such fair, and shall receive from such judge or justice of the peace a certificate under seal of his appointment and authority to act as such special police, which shall be indicated by some appropriate badge of office, and when so authorized he shall be clothed with full police powers.

§ 11. **TRESPASSING.]** Whoever trespasses on any fair grounds to commit any depredations upon the property of any agricultural society, by cutting or destroying any timber or trees, breaking or carrying away any box, trough, stall, bench, fence, lock, door, gate, lumber or other appurtenances to any fair grounds, whether within or without the enclosure thereof, shall be fined not less than five nor exceeding two hundred dollars, and shall be liable civilly for all damages sustained by such unlawful act.

§ 12. **SALE OF LIQUORS PROHIBITED.]** Whoever shall keep any shop, booth, tent, wagon, vessel, boat or other place for the sale of spirituous liquors, or expose for sale, sell or otherwise dispose of any spirituous liquors, or engages at gaming at or within one-half mile of the place where any agricultural, horticultural or mechanical fair is being held, under the auspices of the district boards of agriculture, shall for each offense be fined not less than five nor more than one hundred dollars; *Provided*, This section shall not affect tavern keepers, distillers or others exercising their calling at their usual place of business.

§ 13. **ARREST OF VIOLATORS.]** Any person violating the provisions of the preceding section may be arrested upon view, or upon warrant, by any sheriff, coroner, constable, or other officer authorized to make arrest, and such officer may seize the booth, tent, wagon, vessel or boat and articles to be sold, and upon a judgment being rendered against the offender, the same may be sold upon the execution issued upon such judgment, and if sufficient property is not found to satisfy such fine, the offender may be committed to the county jail until the fine and costs are paid, or the prisoner discharged according to law.

§ 14. **DEFINITION OF FAIR.]** Wherever the word "fair" occurs in this act it shall be held to mean a *bona fide* exhibition of the four principal classes of live stock, together with agricultural and horticultural products and mechanical arts.

§ 15. **COMPENSATION.]** The officers of the district boards of agriculture, except the secretary and treasurer, shall serve without pay, but shall receive mileage at the rate of ten cents per mile one way from their home to the place of meeting of the society, and their necessary expenses while in the discharge of their duties, which shall be paid by the Territorial Treasurer upon a warrant issued and certified to by the president of the district boards of agriculture.

§ 16. All acts and parts of acts in conflict with this act are hereby repealed.

§ 17. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

AGRICULTURAL COLLEGE.

CHAPTER 4.

PROVIDING FOR ISSUE OF BONDS FOR PERMANENT IMPROVEMENTS.

AN ACT To Provide Funds for the Purchase of an Experimental Farm and the Construction of Dormitory, Shops, Laboratory and Farm Buildings for the Agricultural College of Dakota, at Brookings, and for other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FUNDS—HOW PROVIDED.] That for the purpose of providing funds to purchase an experimental farm, farm buildings, live stock, and to erect and furnish building for assembly hall, work shops, laboratory and dormitory for young men, for the Dakota Agricultural College and Experimental Station at Brookings, Dakota, the Territorial Treasurer is hereby authorized and empowered, and it is made his duty, to prepare for issue fifty-four thousand five hundred (54,500) dollars of territorial bonds, in denominations of five hundred (500) dollars each, running for a term of twenty (20) years, bearing interest not to exceed five (5) per cent. per annum, with coupons attached, made payable semi-annually on the first day of July and January of each year; such bonds shall be executed under the seal of the Territory, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 2. BONDS HOW SOLD—FUND UNDER THE CONTROL OF BOARD OF REGENTS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon the request of the board of regents or trustees of said Agricultural College, he shall give public notice for thirty (30) days in two (2) newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest and best bidder for cash at not less than their par value. Any moneys received as premiums from the sale of said bonds shall be placed in the building fund of said Agricultural College, and be under the control of said board of trustees or regents of said college, for building purposes only.

§ 3. TAX FOR PAYMENT OF PRINCIPAL AND INTEREST—SINKING FUND.] To secure the prompt payment of the principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time other taxes are levied and collected, in the same manner as other territorial taxes are collected, such sum as shall be sufficient to pay the interest and exchange thereon, and after ten (10) years from the first day of May, 1887, and in addition thereto a sinking fund shall be annually levied, sufficient to retire and pay said bonds at their maturity, and it shall be the duty of the Territorial Treasurer to pay promptly on the first day of July and January of each year, such interest as shall then be due, and to purchase said bonds at their par value and retire and cancel the same, with the sinking fund, taxed as fast as the same shall be received; and no tax or bonds, either principal or interest, shall at any other time be used for any other purpose.

§ 4. PAYMENT OF INTEREST AND PRINCIPAL.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided, to pay either principal or interest upon such bonds, when due, he shall pay such interest or principal out of any other unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory a sum sufficient to pay such interest on said bonds, as may become due, before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly, at the time it falls due, out of said funds.

§ 5. FUND REPLACED FROM SPECIAL TAX.] All moneys belonging to the general territorial fund applied by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax, levied to pay the same.

§ 6. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury all the funds realized from the sale of the bonds provided for in this act, for erecting and completing a building for assembly hall, shops, laboratory and dormitory for young men, "twenty-five thousand (25,000) dollars."

For heating and furnishing same, five thousand (5,000) dollars.

For shop furnishing and tools, two thousand (2,000) dollars.

For chemical laboratory apparatus, two thousand (2,000) dollars.

For farm lands, eight thousand (8,000) dollars.

For outhouses, five hundred (500) dollars.

For farm, barns and fences, fifteen hundred (1,500) dollars.

For the purchase of thoroughbred stock, three thousand (3,000) dollars.

For team and farm tools, one thousand (1,000) dollars.

For farm house, one thousand (1,000) dollars.

For water and sewerage, two thousand (2,000) dollars.

For forestry, twenty-five hundred (2,500) dollars.

For library, one thousand (1,000) dollars.

§ 7. AUDITOR TO DRAW WARRANTS.] It shall be the duty of the Auditor of the Territory, upon the application of the board of trustees or regents, or a majority thereof, to draw warrants upon the Territorial Treasurer to carry out the provisions of this act.

§ 8. PLANS FOR BUILDINGS—ADVERTISING FOR BIDS.] The board of trustees or regents of the Dakota Agricultural College, shall, on or before the first day of May, 1887, prepare, or cause to be prepared, plans and specifications for erecting the building for shops, dormitory and laboratory and the other buildings provided for by this act, and after the same shall have been adopted by them and approved by the Governor of the Territory, said board shall cause said plans and specifications to be filed with their secretary, and it shall be the duty of the said board, within twenty (20) days thereafter, to give public notice, which notice shall be inserted for thirty (30) days in two (2) newspapers published in the Territory, of general circulation therein, and in two (2) newspapers in other states, that on the day and hour specified in such notice they will receive sealed proposals at the office of the secretary of said board, according to the plans and specifications aforesaid, which shall be open for the inspection of bidders at the office of the secretary of the board, at such place as the said board may designate.

§ 9. TOTAL COST—TERRITORY TO BE REIMBURSED.] The cost of the building for shops, laboratory and dormitory for young men, including furnishing with necessary furniture and steam heating, shall not exceed the sum of thirty thousand (30,000) dollars. The cost of the farm lands for the Experimental Station shall not exceed the sum of twenty-five (25) dollars per acre, and they shall be adjacent to the lands already owned by the Territory and comprising said Agricultural College Farm; *and provided, further,* That whenever the funds arising from the sale of the congressional grant of lands for the Dakota Agricultural College shall become available, the Territory shall be reimbursed therefrom for all funds invested in said experimental farm lands, together with the interest thereon, from the date of the issue of said bonds.

§ 10. OPENING PROPOSALS—AWARDING CONTRACT.] On the day advertised for the opening of said proposals for the erecting of said buildings provided for in this act, the board of regents or trustees shall proceed to award the contract or contracts, reserving the right to reject any or all bids, if, in their judgment they are too high, and may again advertise for proposals, or accept such bids, as may in their judgment be for the best interests of the Territory.

§ 11. WALLS TO BE OF BRICK OR STONE.] That the walls of the said building for shops, dormitory and laboratory shall be constructed of good brick or stone, and said building shall be made as nearly fire proof as practicable.

§ 12. PAYMENTS TO BE MADE—HOW.] The board of regents, or trustees, as the work progresses, shall, on application of the con-

tractor or contractors, certify to the Territorial Auditor the value of the work done on said buildings and improvements at the time; and on such certified statements the Auditor shall issue a warrant upon the Territorial Treasurer for a sum not exceeding seventy-five (75) per cent. of the value of the work so certified to have been done on said buildings and improvements at the time of making such application, including amount of all warrants previously issued in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said buildings and improvements shall be paid, or value of the work, certified by the trustees, or regents, until at least one-fourth ($\frac{1}{4}$) of the work has been completed by the contractor or contractors.

§ 13. **WHAT CONTRACT TO STIPULATE.**] The contract or contracts aforesaid shall stipulate that all material shall be of good quality, and that the work shall be performed in a good, workman-like manner; and these stipulations shall be enforced.

§ 14. **FINAL PAYMENT.**] The balance due the contractor or contractors, under the contract or contracts, shall be paid on the completion of the work, and its acceptance and approval by the board of regents, or trustees.

§ 15. **LIVE STOCK TO BE PURCHASED—PROPOSALS FOR SAME.**] That the live stock, for the purchase of which this act provides, except farm team, shall consist of one male and female of each of the following breeds of cattle, sheep, swine, and horses, all of which shall be of thoroughbred pedigreed families, to-wit:

Cattle—Hereford, Shorthorns, Holstein, and Polled Angus.

Sheep—Schropshire, Southdowns, and Merino.

Swine—Berkshire, Poland China.

Horses—Norman and Clydesdale.

And that none of said cattle, sheep, swine or horses shall exceed the age of fifteen (15) months, nor be less than six (6) months of age.

It is made the duty of the board of regents, or trustees, on or before the first day of June, 1887, to advertise in two (2) newspapers of general circulation in the Territory of Dakota, and three (3) leading farm journals of other states, for sealed proposals, to furnish any or all of said stock, for a period of thirty (30) days; and that the purchase of said stock shall be made from the person or persons offering the best class of stock at the lowest figures, as shown by the aforesaid proposals; that the published notice for the receipt of said proposals shall state the day, hour and place at which said bids shall be opened by said board of trustees or regents, and the bids shall provide for the delivery of the stock in good condition at the said Agricultural College Farm at Brookings, Dakota Territory.

§ 16. **DEBT IN CASE OF TERRITORIAL DIVISION.**] In case of the division of the Territory, that part of the Territory of Dakota in which said Agricultural College of Dakota is located, shall, on the

division of the Territory, assume and pay all bonds and coupons due and unpaid, issued on account of and in conformity with this act.

§ 17. All acts and parts of acts conflicting herewith are hereby repealed.

§ 18. This act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1887.

CHAPTER 5.

AGRICULTURAL COLLEGE—APPROPRIATION FOR MAINTENANCE.

AN ACT Entitled An act to Appropriate Funds for the Maintenance of the Dakota Agricultural College for the Current Years of 1887 and 1888, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATED.] There is hereby appropriated out of any funds in the Territorial Treasury not otherwise appropriated, for the current contingent expenses of the Dakota Agricultural College at Brookings, for the ensuing two years of 1887 and 1888, and for other purposes, the following sums, to-wit:

For salaries of president, professors, teachers, farm superintendent and secretary of the board of regents, twenty-four thousand five hundred dollars.

For janitors, engineers and firemen, two thousand dollars.

For students' labor, twelve hundred dollars.

For fuel and lights, six thousand dollars.

For mathematical instruments and apparatus, four hundred (400) dollars.

For wells, cisterns, water tank and steam power pump, eighteen hundred (1,800) dollars.

For incidentals, postage, cartage, printing and stationery, two thousand dollars.

For steam heating appliances furnished in 1885 and 1886, nineteen hundred and ninety-six (1,996) dollars.

For fuel and lights furnished in 1886 and not paid for want of funds, sixteen hundred and fifty-eight (1,658) dollars.

For material and labor for furnishing the third story of young ladies' dormitory, one thousand and fifty-nine (1,059) dollars.

For printing catalogue for 1886, two hundred and eighty-three dollars.

§ 2. It is hereby made the duty of the Territorial Auditor, when satisfied of the legality and validity of claims certified to him by the board of regents of the Agricultural College, in carrying out the provisions of this act, to draw his warrant upon the Territorial Treasurer for the sum or sums so certified.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 6.

GOVERNMENT VESTED IN BOARD OF REGENTS.

AN ACT Entitled an Act to Provide for the Government of the Agricultural College and Experimental Station for the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. GOVERNMENT.] The government and management of the Agricultural College and Experimental Station of the Territory of Dakota, located at Brookings, in Brookings county, is hereby vested in a board of regents, to be known as the Agricultural College Board of Regents.

§ 2. BOARD OF REGENTS, HOW CONSTITUTED.] The said board of regents shall consist of five members besides the Governor of the Territory and one member of the Territorial Board of Agriculture, who shall be ex-officio members of the board. The members of said board shall be nominated by the Governor, and by and with the advice and consent of the Legislative Council, appointed on or before the third Monday in February of each biennial session of the Legislature. The Territorial Board of Agriculture, at the regular annual meeting of said board, shall elect one member thereof, to be ex-officio a member of said board of regents, who shall hold for the term of one year. The Governor shall have power to fill all vacancies in said board which occur when the Legislature is not in session, and the members of said board shall hold their office until their successors are appointed and qualified as provided in this act.

§ 3. ORGANIZATION.] The Governor shall cause to be issued to each of said regents a commission, which shall be under seal of the Territory. At the first meeting of said board the members thereof shall take and subscribe the oath of office required of all civil officers of the Territory, and shall then proceed to elect a president and treasurer, and the president of the college shall be secretary of the board, but shall have no vote in the board. A

majority of said board shall be a quorum for the transaction of business. The board shall require a bond of its treasurer and fix the amount thereof.

§ 4. MEETINGS—NUMBER RESTRICTED.] The board of regents shall hold its meetings at the Agricultural College, and fix the time of holding the same, providing there shall not be to exceed six regular meetings in each year. The members of the board shall receive as compensation for their services three dollars per day for each day employed, not to exceed twenty-four days in any one year and five cents per mile for each mile actually and necessarily traveled in attending meetings of said board, which sum shall be paid out of the Territorial Treasury upon the vouchers of said board.

§ 5. POWERS OF BOARD] The said board of regents shall direct the disposition of all moneys appropriated by the Territorial Legislature or by Congress, for the Agricultural College or Experimental Station for Dakota Territory, and shall have supervision and charge of the construction of all buildings provided for by law for said college and farm. The board of regents shall have power to employ a president and necessary teachers, instructors and assistants, to conduct said school and carry on the experimental farm connected therewith, and to appoint one of its members superintendent of construction of all buildings, who shall receive three dollars per day, for each day actually and necessarily engaged in the discharge of his duties, not to exceed fifty days in any one year, which sum shall be paid out of the Territorial Treasury upon the vouchers of said board.

§ 6. CLAIMS, HOW AUDITED AND PAID.] The said board shall audit all accounts against the funds appropriated for the use of the Agricultural College and Experimental Station, and the Territorial Auditor shall issue his warrant upon the Territorial Treasurer for the amount of all accounts which shall have been audited and allowed by the board of regents and attested by the president and secretary of the same.

§ 7. NAME OF COLLEGE—DESIGN.] The Agricultural College established by chapter three of the Session Laws of 1881, shall be known by the name of the Dakota Agricultural College. The design of the institution is to afford practical instruction in agriculture and the natural sciences connected therewith, and also the sciences which bear directly upon all industrial arts and pursuits. The course of institution [instruction] shall embrace the English language and literature, mathematics, civil engineering, agricultural chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology and such other natural sciences as may be prescribed, political, rural and household economy, horticulture, moral philosophy, history, book-keeping and especially the application of science and the mechanics' arts to practical agriculture in the field.

§ 8. COURSE OF STUDY.] A full course of study in the institu-

tion shall embrace not less than four years, and the college year shall consist of not less than nine calendar months, which may be divided into terms by the board of regents, as in their judgment will best secure the objects for which the college was founded.

§ 9. SALARIES—REMOVALS.] The board of regents shall fix the salaries of the president, teachers, instructors and other employes and prescribe their respective duties. The board may remove the president or subordinate officers and supply all vacancies.

§ 10. FACULTY.] The faculty shall consist of the president, teachers and instructors, and shall pass all needful rules and regulations for the government and discipline of the college, regulating the routine of labor, study, meals and the duties and exercises and all such rules and regulations as are necessary to the preservation of morals, decorum and health.

§ 11. PRESIDENT.] The president shall be chief executive officer of the Agricultural College, and it shall be his duty to see that all rules and regulations are executed, and the subordinate officers and employes, not members of the faculty, shall be under his direction and supervision.

§ 12. WAGES OF STUDENTS—HOW DETERMINED.] The president of the college and the president of the board of regents shall constitute a committee to fix the rate of wages to be allowed to students for labor on the farm or in the shops or kitchen of the Agricultural College.

§ 13. ANNUAL REPORT OF FACULTY.] The faculty shall make an annual report to the board of regents on or before the first Monday in December of each year, showing the condition of the school and farm and the results of farm experiments, and containing such recommendations as the welfare of the institution in their opinion demands.

§ 14. BIENNIAL REPORT TO GOVERNOR.] The board of regents shall make a report to the Governor on or before the last Monday in December next preceding each biennial session of the Territorial Legislature, containing a financial statement, showing the condition of all funds appropriated for the use of the Agricultural College and Experimental Station; also the moneys expended and the purposes for which the same were expended in detail; also the condition of the institution and the results of all the experiments carried on there.

§ 15. DEGREES—HOW CONFERRED.] The board of regents and the faculty shall have power to confer degrees upon all persons who shall have completed the course of study prescribed for said school by the board and faculty, and who shall have passed a satisfactory examination upon the studies contained in said course, and who shall be known to possess a good moral character.

§ 16. REGENTS DEFINED.] The board of directors as appointed by the Governor and confirmed by the Council of the Seventeenth

legislative session, shall constitute and be known as the regents provided for in this act.

§ 17. EXPERIMENTAL STATION.] There is hereby established an Agricultural Experiment Station in connection with the Agricultural College of Dakota, and under the direction of the board of regents of said college, for the purpose of conducting experiments in agriculture, according to the terms of section 1 of an act of Congress, approved March 3d, 1887, and entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several States, under the provisions of an act, approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto."

§ 18. ASSENT OF LEGISLATURE TO CARRY OUT PROVISIONS OF ACT OF CONGRESS.] The assent of the Legislature of Dakota is hereby given, in pursuance of the requirements of section nine of said act of Congress, approved March 3d, eighteen hundred and eighty-seven, to the grant of money therein made, and to the establishing of an Experiment Station, in accordance with section one of said last mentioned act, and assent is hereby given to carry out all and singular the provisions of said act.

§ 19. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

ARTESIAN WELLS.

CHAPTER 7.

PROVIDING FOR CONSTRUCTION AND MAINTENANCE.

AN ACT to Provide for the Construction and Maintenance of Artesian Wells, and the Assessment and Collection of Taxes Therefor.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

CHAPTER I.—ARTESIAN WELLS.

§ 1. MAY BE LOCATED—WHEN] That artesian wells may be located, established, constructed, and maintained whenever the same shall be conducive to the public convenience or welfare.

§ 2. ARTESIAN WELL DEFINED.] The word "artesian well," whenever used in this act, shall be deemed to include any water

course or ditch connected for the purpose of drainage, and any artificial ditch or drain, proposed or constructed for such purpose.

CHAPTER II.—WELL COMMISSIONERS.

§ 1. JUDGE OF PROBATE.] For the purpose of carrying into effect the provisions of this act, the judge of probate shall be ex-officio county artesian well commissioner, and shall have jurisdiction over all artesian wells within his county, except that in all cases where the entire artesian well shall be laid in one county, and the benefits to be derived therefrom, and the assessments for its construction shall extend to lands situated in one or more adjoining counties, then all such artesian wells shall be laid by the commissioners of such counties, acting jointly, and all their proceedings shall be had under the provisions of this act, regulating the construction of artesian wells traversing more than one county.

§ 2. WELLS IN CITIES—APPEALS.] In case it is proposed to run a part of an artesian well through an incorporated city, the whole of such artesian well shall be located, established and constructed, and the assessment for its construction made by the county artesian well commissioner, in the same manner as herein provided for the construction of other artesian wells by county artesian well commissioners, and wherever the word “township” is used in this act it shall be construed to mean “city,” as the case may be; *Provided*, That when an appeal is taken from the assessment of such commissioner by the owner of lands in a city, such appeal shall be made to the common council of such city, subject in every other respect to the provisions of this act, covering appeals made to township boards; *Provided*, That in case the resident owners or freeholders of a majority of the property assessed as benefitted, shall appeal to the county commissioners and protest against the laying out and constructing of any such well, then such well shall not be constructed.

§ 3. DUTIES OF WELL COMMISSIONER.] It shall be the duty of each county artesian well commissioner to make and keep a full financial statement of each artesian well laid out by him. The county artesian well commissioner shall make and keep in his office, in a book to be provided for that purpose, a complete record of each artesian well applied for, under his supervision, under the provisions of this act, which record shall include a copy of the application for the laying out of the artesian well, of the minutes of the survey, of the release of the right of way, when the same has been released, together with the minutes of his doings, of his orders of determination of necessity, and of establishing the artesian well and his assessment of benefits, and where special commissioners or a jury have been called, it shall also contain a copy of the application to the district court, of the return of the special commissioners or jury, as the case may be, and of all other papers in his office necessary to show a complete history of each artesian

well, all of which said original papers shall then be deposited and filed in the office of the county clerk.

§ 4. ACKNOWLEDGMENTS—OATHS—WHAT IS SUFFICIENT CONVEYANCE.] Artesian well commissioners may take acknowledgments of releases of rights of way, and administer oaths in all proceedings in any way pertaining to artesian wells under this act. A simple form of release of right of way and damages, that shall set forth by reference to the survey of artesian wells, or by other convenient description, the particular land intended to be conveyed, and signed and acknowledged by the person having the right to convey, shall be deemed a sufficient conveyance under the provisions of this act.

§ 5. ANNUAL REPORT—WHAT TO CONTAIN.] Every county artesian well commissioner shall make a report to the board of county commissioners at their annual meeting in October of all artesian wells constructed, finished or begun under his supervision during the year then ending, and he shall also render to them a full financial statement of each artesian well. The reports required by this section shall include an itemized statement of all expenses and disbursements on account of each and every artesian well laid or operated by him during the year, and a debit and credit balance of every such artesian well.

CHAPTER III.—LOCATING OF WELLS.

§ 1. EXPENSES—HOW PAID.] Before the commissioner takes any action toward locating or establishing any artesian well, there shall be filed with him an application, signed by not less than five freeholders of the township or townships in which such artesian well, or the lands to be benefitted thereby and to be assessed therefor may be situated, one or more of whom shall be owners of lands liable to be assessed for benefits in the construction of such artesian wells, giving a general description of the beginning, the route and the terminus thereof. Such applicants shall be jointly and severally liable for all costs and expenses, in case the commissioner, upon examination, or upon examination and survey shall determine that the same is unnecessary or impracticable, or in case the proceedings shall be dismissed for other cause. If the person signing such application shall refuse to pay such costs and expenses, the commissioner shall bring suit in a court of competent jurisdiction and collect such costs and expenses, with costs of suits. If upon the presentation of such application the commissioner shall deem the financial responsibility of the petitioners insufficient, he shall have the right to return such application for additional signatures.

§ 2. WELL COMMISSIONER TO MAKE ORDER OF DETERMINATION—HOW—WHEN.] Upon the filing of such application the commissioner authorized to act thereon shall, as soon as practicable thereafter, proceed to personally examine the route of the proposed ar-

tesian well, and if in his opinion it is necessary and conducive to the public convenience or welfare that the application should be granted, he shall, as a means of determining the practicability thereof, make a survey and measurement of the line of the proposed artesian well, or cause the same to be made by a competent surveyor; if upon such survey he shall find such artesian well to be practicable he shall make his order of determination in writing in accordance therewith, and shall establish the commencement, route and terminus of said artesian well. For such purpose he shall have the right to enter upon any such lands traversed by the route of the proposed artesian well, or otherwise connected with the purpose of the proceeding. In locating such artesian well the commissioner shall not be limited or confined to the precise starting point, route or terminus set forth in the application. The record or minutes of the survey shall show the line and route of the artesian well.

§ 3. PROCEEDINGS IN DISTRICT COURT—WHEN.] If within twenty days after the making of such order of determination all the persons through whose lands the proposed artesian well is to pass shall not have executed a release of right of way, and all damages on account thereof, the commissioner shall, as soon as practicable, make application to the district court of the county in which such lands are situated, for the appointment of three special commissioners, who shall be resident freeholders of the county, to determine the necessity for such artesian well, and for the taking of private property for the use and benefit of the public, for the purpose thereof, and the just compensation to be made therefor. Such application shall be in writing, and shall set forth:

First. The fact that an application for an artesian well was made, and when, describing the artesian well, and also giving the route thereof, according to the application and survey;

Second. That an order determining the necessity for the artesian well was made by the commissioner, giving the time when the order was made;

Third. The names of the persons, if known, who have not released right of way and damages, the description or descriptions of land owned by each such person that will be affected by the artesian well, and the descriptions of land owned by non-residents or unknown persons, and the fact that they have each and all neglected or refused to execute release of right of way and damages.

§ 4. DISTRICT COURT TO ISSUE CITATION.] The court to whom such application is made shall make an examination at the time of such application of all the proceedings of the commissioner so far as had, and, if such proceedings be found to be in accordance with the statute, such court shall at once appoint a time and place of hearing upon the application, which time shall be fixed not less than thirty (30) nor more than forty (40) days thereafter, and the court shall issue a citation to all persons whose lands are traversed by such artesian well, or who will be liable to assessments for benefits in the construction thereof, and who have not released right of

way and all damages on account thereof, to appear at the time and place designated in said citation, and be heard with respect to such application, if they so desire, and show cause, if any there be, why said application should not be granted.

§ 5. **WHAT CITATION TO CONTAIN—HOW SERVED.**] The citation shall recite so much of the premises as will show jurisdiction, and in the case of resident owners, shall be addressed to such owners by name; in the case of non-resident owners, it shall be addressed to the owner or owners of the several descriptions of land involved. It shall describe the artesian well by its commencement, terminus and general course, and shall set forth that lands owned by the persons to whom it is addressed will be crossed by such artesian well, or will be subject to assessment for its construction, and that a description and survey of such artesian well is on file with the court issuing the citation. Such citation shall be personally served by the commissioner, or some other competent person, upon every person whose lands are traversed by such artesian well, or who will be liable to assessment, for benefits in the construction thereof, and who has not released the right of way, and all damages on account thereof, and who is known and resides within the township or townships in which any such lands are situated, by delivering to him a copy thereof, or by leaving the same at his residence, with some person of suitable age and discretion who shall be informed of its contents. In all cases of personal service, at least ten (10) days shall intervene between the day of service and the day of hearing, and the court issuing such citation shall require proof of such service, by affidavit, showing the time, place and manner of such service. Citations shall be served upon townships by leaving a copy thereof with the supervisor, or at his residence; upon cities, by leaving a copy thereof with the mayor or clerk; upon the Territory, by leaving a copy thereof with the prosecuting attorney of the county in which such lands are situated; upon railroad companies, by leaving a copy thereof with the agent of any ticket or freight office of the company operating such railroad; and upon other private corporations, by serving the same upon the officer or person designated by law in cases of civil process. If (the owner of any) lands involved be non-resident, a copy of the citation so far as it affects such lands shall be published in some newspaper published and circulating in the county in which such lands are located, for at least two (2) weeks previous to the day of hearing, which publication shall be deemed to be sufficient notice to all non-resident parties interested in such artesian well. The first publication of such notice shall be at least fourteen (14) full days before the day of hearing, and proof of its publication shall be made as above provided in case of personal services.

§ 6. **SPECIAL COMMISSIONERS—HOW APPOINTED.**] The court to whom such application is made shall, at the time and place fixed in the citation, or at any time to which it may adjourn, and upon

proof of service and publication, where required, proceed to hear all persons whose estate or interests are to be affected by the proceedings, and such persons may show cause against the prayer set forth in the application, and may disprove any of the facts alleged therein, and said court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer set forth in said application, said court shall make an order appointing three (3) disinterested and competent resident freeholders as special commissioners to ascertain and determine the necessity for such artesian well, and to appraise and determine the damages or compensation to be allowed to the owners or parties interested in the real estate proposed to be taken for the right of way of such well. Such court shall, immediately upon the appointment of such commissioners and with the concurrence of the artesian well commissioners, appoint a time and place (such time to be not less than five (5) nor more than fifteen (15) days thereafter), at which time such special commissioners shall meet the artesian well commissioner, and other parties in interest, to consider of the matter and things with the respect to which they have been appointed, and said court shall make public announcement thereof, and thereupon the proceeding shall be deemed a continuing proceeding, and no further notice of the time and place of hearing shall be required, and such appointment and announcement shall be made a part of the record in the case; *Provided*, That any one (1) person whose estate or interest is to be affected by the proceeding may demand and have from such court, at the time of hearing of said application, a jury of twelve (12) freeholders of said county to ascertain and determine the necessity for taking or using such lands, and to appraise and determine the damages and compensation to be allowed therefor. The demand of any one (1) of the parties interested for a jury shall be deemed to be a demand for all, and if no jury be demanded on the part of any person interested in said proceedings before the appointment of special commissioners shall be made by such court, his or her right to the same shall be deemed to have been waived. Whenever such demand for such jury shall have been made, the court shall proceed in the same manner as is provided by law in case a jury is demanded for taking private property for the use of railroad companies, and all further proceedings in the matter had by such court and jury shall be in conformity with the provisions of law as aforesaid, so far as the same shall apply; *Provided*, That when such jury shall have made their report, and the same shall have been confirmed by such court, a certified copy of such order of confirmation shall be furnished by the court to the artesian well commissioner.

§ 7. SPECIAL COMMISSIONERS TO TAKE OATH.] If no demand for a jury shall be made, and the court shall have granted the prayer set forth in the application, such court shall proceed to deliver to the artesian well commissioner a copy of the order ap-

pointing the special commissioners, and the artesian well commissioner shall notify such special commissioners of their appointment and of the time and place they are required to meet with him and with the other parties in interest. They shall be sworn to faithfully discharge the duties of special commissioners in the matter in which they are called to act, and to well and truly determine the necessity of such artesian well, and of the taking of private property for the use and benefit of the public, for the purpose thereof, and the just compensation to be paid therefor. The said commissioners, with the artesian well commissioner and other parties in interest who may be present, shall meet at the time and place ordered by said court and proceed at that time, or at any time to which they may adjourn, to view said premises, and for such purpose they shall have the right to enter upon any lands traversed by the route of the proposed artesian well.

§ 8. DUTIES OF SPECIAL COMMISSIONERS.] The said special commissioners shall hear the proofs and allegations of the several parties in interest, and shall ascertain and determine the necessity for such artesian well; and for the taking of such private property for the use and benefit of the public for the purpose thereof; and the just compensation to be made therefor in each case, which compensation shall be determined without reference to any benefits that may accrue to the land in consequence of the construction of such proposed artesian well. There shall be produced by the artesian well commissioner, at such hearing, the original application for the laying out of such artesian well, and the minutes of his action thereon, so far as had; also copies of the order of determination and the application to the probate court, with the citation annexed, the minutes of the surveyor, signed by him, and the order appointing the special commissioners. The commissioners may adjourn such hearing from day to day, for any cause, not exceeding in all ten (10) days, announcement of which adjournments shall be then and there publicly made.

§ 9. SPECIAL COMMISSIONERS TO MAKE RETURN TO WELL COMMISSIONER—WHEN.] The said special commissioners shall, within fifteen (15) days from the date of their first meeting, make a return in writing of their hearing, determination, and of their several awards, and shall file said return with the artesian well commissioner, who shall examine the same, and if he shall find such return not to be in substantial conformity with the statute, he shall return the same to the special commissioners for correction, with his objections in writing. The special commissioners shall thereupon proceed to correct their return, and file the same with the artesian well commissioner within five days. When the artesian well commissioner shall find such return to be without material error he shall file the same with the other papers in his possession pertaining to such artesian well. Such return shall be deemed a sufficient conveyance to vest the fee of the lands necessary to be taken for such artesian well, and upon which damages are awarded

in the county in which they are situated; or in case the land is not in any organized township, then in the county; *Provided*, That the amount of compensation that may have been awarded therefor shall have been paid, or tendered, or secured to the person entitled thereto, as hereinafter provided.

§ 10. PROCEEDINGS DISMISSED AT COST OF APPLICANTS—WHEN.] In case the special commissioners or jury shall decide such artesian well to be necessary, they shall so state in their return, and the artesian well commissioner shall thereupon dismiss the proceedings at the cost of the applicants, and no further application for the same object shall be entertained within one year thereafter.

§ 11. WELL COMMISSIONER TO PROCEED—WHEN.] If at any time before the appointment of special commissioners or jury provided for in this act, or at any time before the filing of their return and award of damages, all of the parties through whose lands the proposed artesian well is to pass, shall execute a release of right of way, and all damages on account thereof, then all proceedings for the appointment of special commissioners, and all action taken by them after their appointment shall be discontinued and void, and the artesian well commissioner shall proceed as if no application for special commissioners had been made.

§ 12. WELL COMMISSIONER TO DRAW WARRANTS—WHEN.] The artesian well commissioner shall draw his orders severally on the county treasurer for the amounts awarded in the return of the special commissioners or jury, describing in each order the lands in payment whereof it is drawn, and before such artesian well shall be constructed such order shall be tendered by the well commissioner to the party entitled thereto; *Provided*, That if the owner of any lands upon which damages have been awarded be unknown and such lands be not occupied, or in case of a minor or insane or otherwise incompetent person, such order shall be deposited with the clerk of district court, payable to the owner of such description of land upon which such damages were awarded. Such order shall be held by such clerk, to be delivered by him to the owner of such lands when called for, otherwise legally demanded, and the same shall thereby be deemed to have been lawfully tendered to the owner of such lands. It shall be the duty of such county treasurer at any time upon presentation to him of any such artesian well order drawn for the payment of such right of way or damages, to pay the same out of any moneys in his hands belonging to the general fund of such county and refund such amount out of the first moneys collected by him on account of such artesian well.

§ 13. WELL COMMISSIONER TO MAKE TENDER IN LAWFUL MONEY.] If the owner of any lands upon which such damages have been awarded shall, upon the tender of such order to him, refuse to accept the same, the commissioner shall make such tender in lawful money, and for that purpose he shall be authorized to endorse such order and present the same to the county treasurer for

payment, and it shall be the duty of such treasurer to pay such order as hereinbefore provided. If, however, there shall be no money in the general fund of such county treasurer, the commissioner shall be authorized to have such order discounted wherever he may be enabled to do so; *Provided*, Such discount shall not be more than at the rate of ten per cent. per annum, and he shall charge the amount of such discount to the expense and cost of such artesian well, and draw his order therefor. The commissioner shall thereupon make to such owner a tender, in lawful money, of the amount awarded to him, and if he shall refuse to accept such money, the commissioner shall deposit the same with the county treasurer, taking duplicate receipts therefor, one of which he may retain, and the other he shall file with the county clerk. Such money shall be held by such treasurer to be delivered by him to such owner when called for or otherwise legally demanded.

§ 14. NOTICE TO BE SERVED ON RAILROAD COMPANY—WHEN—LIABILITY.] Whenever it is necessary to run an artesian well across the right of way or road bed of any railroad company, it shall be the duty of the railroad, when notified by the commissioner so to do, to make and maintain the necessary opening through said road bed and to build and maintain a suitable culvert. Notice in writing to make such opening and to construct such culvert shall be served upon such company, by leaving a copy thereof with the ticket or freight agent or general officer of such railroad company at least thirty days before such railroad company shall become liable.

§ 15. PENALTY—DISTRICT ATTORNEY TO PROSECUTE.] In case such railroad company shall refuse or neglect to comply with the provisions of the preceding section, it shall be liable to a penalty of ten dollars for each day's refusal or neglect to make such opening and construct such culvert. The district attorney of the county in which such railroad company shall have refused or neglected to comply with the provisions of the preceding section shall, upon complaint being made by the commissioner, bring suit to collect such penalty or fines, and it shall be his duty to prosecute the same to a final determination in any court having competent jurisdiction.

§ 16. WELL UNDER JURISDICTION OF ROAD SUPERVISOR—WHEN.] All that part of such artesian well which is laid and constructed along, or within the limits of, or across any public highway shall be under the jurisdiction of the overseer of highways or road supervisor, and it shall be his duty to keep the same open and free from all obstructions, and when any highway is subsequently constructed along or across such artesian well, then so much of said well as shall come within the limits of such highway shall also be kept open and free from obstruction as above provided.

CHAPTER IV.—CONSTRUCTION OF ARTESIAN WELLS.

§ 1. FINAL ORDER ESTABLISHING WELL—NAME—ADVERTISING FOR PROPOSALS—ASSESSMENT OF BENEFITS.] Upon the release of

right of way and damages, or upon the determination and return of the special commissioners, or the order of the probate court, as the case may be, the well commissioner shall make his final order establishing the well; and shall give the same a name by which it shall be known and recorded. He shall give not less than sixty days' notice of the time and place of letting, by posting notices thereof in five or more public places in each township traversed by such artesian well, and by causing a notice thereof to be published not less than six insertions in one or more weekly newspapers published and of general circulation in the county. Such notice shall also state that at the time of such letting, or at such other times or places as the commissioner may designate, (which time may be before or after such letting), the assessment of benefits will be subject to review. On such review the overseer of highways of any township may appear on behalf of such township, and the road supervisors for any road district; at such review the commissioner shall hear the proofs and allegations of all parties in interest, and shall carefully reconsider and review his assessment of benefits, and equalize the same as may seem just and equitable.

§ 2. TAX—HOW SPREAD AND COLLECTED.] At the time and place of letting, and before receiving any bids, the commissioner shall have the right, and it shall be his duty, to determine whether the whole of the per cent. of the taxes to be spread for benefits to lands in the construction of such well shall be assessed and collected in that same year, or whether the same shall be divided into two, three, four or five equal installments, one installment to be collected in that same year, and the other installments in the years following. Such determination, however, shall be made then and there, and shall be publicly announced for the information of bidders; *Provided*, That the per cent. of tax, determined by the commissioner to be assessed against townships shall all be spread in the first year.

§ 3. COMMISSIONER TO RECEIVE BIDS—PAYMENTS—HOW MADE.] The commissioner shall thereupon proceed to receive bids on the well and make contract with the lowest responsible bidder by giving adequate security for the performance of the work. Such security shall cover the completion of the job in the manner and within the time fixed in the contract, and shall be in a sum to be fixed and determined by the commissioner. The commissioner shall reserve the right to reject any and all bids, and may adjourn such letting in whole or in part from time to time, to such other time or place, to be by him at the time of such adjournment publicly announced, as shall to him seem proper, but not in all more than forty days from and after the time of letting first advertised. No payment exceeding two-thirds of the amount earned on any contract shall be made to any contractor until after the completion and acceptance of his work by the commissioner.

CHAPTER V.—ASSESSMENT AND REVIEW.

§ 1. APPORTIONMENT OF BENEFITS AND COSTS.] The commissioner shall apportion the per cent. of the costs of construction of such well which any townships traversed thereby shall be liable to pay, by reason of the benefit to the public convenience or welfare, or in case that part of the county is not organized into civil townships, then to the county at large, and he shall also apportion the per cent. of benefits to accrue to any piece or parcel of land by reason of the construction of such well, over and above the per cent. assessed against such township, as aforesaid, which per cent. of benefits shall be apportioned upon and assessed against the lands benefitted according to such assessment of benefits, and which apportionments he shall announce at the time and place of letting, as provided in chapter four. Such assessment of per cent. for benefits shall thereupon be subject to review and correction, and may be appealed from in the manner hereinafter provided; *Provided*, That in all cases where a well is constructed by the county well commissioner, and when the lands to be assessed therefor are situated in more than one township, or partly in a township and partly in the county not organized into townships, such commissioner shall first determine and apportion among such several townships and the county at large, the per cent. of the entire amount to be levied for the construction of said well, which each township and the county at large, and the lands therein situated are to bear. From this determination there shall be no appeal.

§ 2. APPEALS—WHAT TO STATE.] The owner of any lands assessed a per cent. for benefit for the construction of any well, who may conceive himself aggrieved by the assessment made by the commissioner, may within ten days after the day of review, as provided for in the preceding section, take an appeal to the township board of the township in which his lands so assessed are situated, by filing with the township clerk, or when said lands are not in an organized township, to the board of county commissioners, by filing with the county clerk or auditor a notice to that effect, addressed to the township board, or board of commissioners, and by filing also a bond with such clerk in the sum of two hundred dollars, with one or more sureties, to be approved by such clerk, conditioned upon the payment of all costs in case the assessment made by the commissioner shall be sustained. In such appeal the appellant shall also state whether the Territory is an interested party.

§ 3. PROCEEDINGS ON APPEAL SUBJECT TO REVIEW ON CERTIORARI.] The township or county clerk or auditor shall thereupon call a meeting of the township board or board of county commissioners, to consider such appeal. The time for such meeting shall be fixed not less than six or more than twelve days from the date of filing such appeal. A notice of the time and place for hearing such appeal shall be posted in at least five public places in said township

or county, and shall be served upon the members of the township or county board, the commissioner, the appellant to be a resident of the township, and upon the district attorney of the county in all cases where the Territory is an interested party. Such service shall be made not less than six days before the day of hearing, and may be made either by personal service or by causing a copy thereof to be left at their several places of residence. At such hearing the board shall have the right to review all assessments. Only one notice of appeal for each well shall be entertained by the township or county clerk, or auditor; *Provided*, That the proceedings in establishing any well shall be subject to review upon certiorari, as herein provided. Notice of such certiorari shall be served on the commissioner within ten days after the determination of such commissioner in establishing any well, as provided in section one of chapter four, in the same manner as notice is required to be given of certiorari for reviewing judgments rendered by justices of the peace, and the writ shall be issued and served, and bond given and approved, and subject matter brought to issue in the same time and manner, as near as may be, as in such cases provided, except that such certiorari may be heard by the court during term, or at chambers, upon eight days' notice given to the opposite parties, and the district court shall hear and determine the same without unnecessary delay, and if any material defect be found in the proceedings for establishing the well, such proceedings shall be set aside; if the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof; and if they be not sustained, the parties petitioning for the well shall be liable for the costs. If no certiorari be brought within the time herein prescribed, the well shall be deemed to have been legally established, and its legality shall not thereafter be questioned in any suit at law or equity; *Provided, further*, That when such proceedings are brought, the commissioner shall postpone the letting of contracts and all other proceedings until after the determination of the court.

§ 4. MEMBER OF BOARD ON APPEAL DISQUALIFIED—WHEN—VACANCY—HOW FILLED.] No member of the township or county board whose lands may have been assessed for benefits in the construction of such well shall act upon such appeal. In case any member of such board shall be so disqualified, his place shall be filled in the same manner, and by the same persons as is provided by law for other cases, if disqualified members of township boards.

§ 5. DUTY OF BOARD ON APPEAL—ACTION OF BOARD FINAL.] The township or county board shall proceed, at the time and place specified in the notice, to view the grounds and review the assessments made by the commissioner, and to hear the proofs and allegations of all parties in respect to the matter of such appeals, and if in their judgment there be manifest error or inequality in such assessments, they may order such changes to be made as they

may deem just and equitable. The action and decision of said board shall be final, and such action and decision shall be reduced to writing, and signed by the board making the same, and shall be delivered to the commissioner, together with all other papers relating thereto.

§ 6. COSTS OF APPEAL—HOW PAID.] In case the assessment of the commissioner shall be sustained by such township or county board, the appellant shall pay the whole costs and expenses of such appeal. Such costs and expenses shall be ascertained and determined by the township or county clerk, or auditor, and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action at law to be brought by the commissioner on the bond before any court having competent jurisdiction.

§ 7. ASSESSMENTS FOR BENEFITS—HOW CONSTRUED—LANDS—HOW DESCRIBED.] All assessments of benefits under the provisions of this act shall be upon the principle of benefits derived. All descriptions of land under the provisions of this act shall be made by giving the legal subdivision thereof whenever practicable, and when the tract of land which is to be benefitted or affected by such well is less than such legal subdivision, it may be described by designation of the lot or other boundaries, or in some way by which it may be known.

§ 8. FURTHER ASSESSMENT WHEN THE AMOUNT ASSESSED IS INSUFFICIENT.] Whenever the amount assessed for the construction of any well shall not be sufficient to complete the same, and to pay all the costs and incidental expenses, a further assessment shall be made to meet the deficit or additional expense. Such further assessment shall be apportioned, assessed, levied and collected as provided in the first instance and on the same percentage, and shall be collected in one year, but there shall be no review of, nor appeal from, such further assessment.

CHAPTER VI.—LEVY AND COLLECTION OF WELL TAXES.

§ 1. COMPUTATION OF COSTS—APPORTIONED BETWEEN DIFFERENT TOWNSHIPS—WHEN.] Within ten days after the letting of contract, and in case of an appeal, then forthwith after such appeal shall have been decided, the commissioner shall make a computation of the entire cost of such well, which shall include all the expenses of locating, establishing and constructing the same, including the commissioner's fees, cost of survey, fees and expenses of special commissioners, or jury, and amount of contracts for construction, also the costs of appeal in case the assessment of benefits made by the commissioner shall not be sustained, and all other expenses, and he shall add the whole into a gross sum, and add thereto ten percentum of said gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of construction of such well. In case the well and the assessment therefor shall affect more than one township, the commissioner shall apportion such sum between the several town-

ships so affected, and upon the county where affected, upon the basis and per cent. determined upon by him as provided in section one of chapter five.

§ 2. ASSESSMENT ROLL—WHAT TO CONTAIN—WELL SHALL NOT BE CONSTRUCTED—WHEN.] The commissioner shall thereupon make a special assessment roll for such well for each township affected thereby, and for any land not included in any organized township, which roll shall be designated “(giving the name) Well Special Assessment Roll,” and he shall enter therein a correct description of all the tracts, parcels, or subdivisions of land benefitted by such well, as provided in sections one and seven of chapter five, and place opposite each description the amount of the per cent. heretofore determined upon by him or by the township board. He shall also enter thereon the amount of the per cent. apportioned to such township, and shall add a certificate in writing of his determination made at the time and place of letting, whether the taxes assessed for benefits shall be paid in one or two years. Such rolls shall be dated and signed by said commissioner, and filed on or before the last Wednesday in September of each year, in the office of the county clerk of the county in which such lands may be located; *Provided*, That in case the resident owners or freeholders of a majority of the property assessed, as liens fitted, shall appeal to the county commissioners and protest against the laying out and constructing of any such well, then such well shall not be constructed.

§ 3. COUNTY CLERK TO SPREAD ON ROLL.] It shall be the duty of the county clerk to spread on his roll the total amount of all the well taxes determined upon by the commissioner, to be assessed upon the township at large as a part of the township tax for the year in which the same was assessed, and in the same column with the general township tax. He shall also spread upon said roll separately, and immediately following the other descriptions, all tracts or parcels of land specified by the commissioner to be assessed for benefits, and shall place opposite each description, in a column marked “Well Taxes,” the amount of taxes apportioned thereon; *Provided*, That no well taxes shall be so spread, unless directed by the board of county commissioners, as in case of other township taxes. All wells shall be entered separately, naming each particular well.

§ 4. WELL TAXES—HOW COLLECTED.] All well taxes assessed under the provisions of this act, shall be collected in the same manner as territorial and other general taxes are collected, and collecting officers are hereby vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. All taxes levied under the provisions of this act, with all lawful costs, interests and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner or owners of such lands until they are paid.

§ 5. COUNTY TREASURER PROCEEDS THE SAME AS WITH OTHER TAXES—WHEN.] If the taxes levied for the construction of any well are not collected by the county treasurer, they shall by him be proceeded on, together with the lands upon which they are levied at the same time, and in the same manner, in every respect (naming in each case the particular well) as lands are returned for territorial, county and township taxes, and such taxes shall follow such lands, the same as all such other taxes, and all the general provisions of law now existing, or that may be hereafter enacted for enforcing the payment of township, county and territorial taxes shall apply to such well taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

§ 6. COMMISSIONER TO DRAW ORDERS—HOW.] All orders for the payment of lands for right of way, for services rendered and work performed, shall be drawn by the commissioner upon the well fund of each particular well. All orders for the payment of lands for right of way and for all other services rendered and expenses incurred (except contract for construction), shall be paid out of the first year's taxes, and the balance of such first year's taxes (if any) shall be applied in payment of the contract for the construction of such well. For the balance due upon such contract the commissioner shall draw an order payable out of the second year's assessment; *Provided*, That no commissioner shall draw orders payable in any one year for a larger amount than each year's assessment, but shall draw as near as may be to the exact amount assessed. All accounts of well commissioners for personal services shall be audited and allowed by the board of county commissioners.

§ 7. INJUNCTION SHALL NOT ISSUE—WHEN.] After any taxes have been assessed for the construction, location, or establishment of any well, no injunction shall issue to restrain the spreading of the same upon the tax roll, nor to restrain the collection thereof, nor shall the same be in any manner stayed, unless the amount of such assessment shall first be paid into the county treasury, to be applied upon such tax in case the court, in which the suit upon which such injunction is tried, shall so order.

§ 8. RELIEF FROM ERRONEOUS TAXES.] The collection of no tax levied or ordered to be levied for the payment of the location or construction of any well under this act, shall be perpetually enjoined or declared absolutely void in consequence of any error or informality of any officer in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any such well shall have been located and established, nor on account of any irregularity or informality in the condemnation of right of way, nor for want of any record thereof; but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the proceedings to locate and establish any well, or to enjoin any tax or

assessment levied or ordered to be levied for the payment of the labor and expense thereof, shall if there be manifest error in the proceedings, allow the plaintiff in action to show that he has been injured thereby. The court may on application of either party, appoint such person or persons to examine the premises or to survey the same, or both, as may be deemed necessary.

§ 9. COURT SHALL ALLOW PROOF—MAY CORRECT GROSS INJUSTICE—COSTS OF—HOW PAID.] The court in which such proceedings are begun shall allow proof that the well was necessary and conducive to the public convenience or welfare, and that all the steps required by law have been substantially complied with, notwithstanding the record required to be kept by the commissioner. In case no substantial error is found, the court may correct any gross injustice in the award of damages, or assessment of benefits, as may appear after hearing the proofs and allegations of both sides, and shall make such order in the premises as shall be just and equitable, and may order that such tax or assessment remain on the tax roll for collection, or order the same to be levied or relieved, or may perpetually enjoin the same or any part thereof, or if the same has been paid under protest, may order the whole or such part thereof, as is just and equitable, to be refunded, the cost of such proceedings, if error or injustice be shown, shall be apportioned among the parties, or if no manifest error or injustice be shown, such costs shall be collected of the party bringing the action.

§ 10. WHEN PROCEEDINGS SET ASIDE BY DISTRICT COURT—WELL COMMISSIONER TO REASSESS—WHEN.] Whenever any well has been located, established, and the work of construction completed, or partially completed, and any court has declared such proceeding illegal or void for any cause other than that such well is unnecessary, and not conducive to the public convenience or welfare, the commissioner shall without unnecessary delay proceed to relay and complete such well under the provisions of this act, and reassess upon the lands benefitted by such well the original cost thereof, together with the expenses of relaying and completing, and shall continue so to do until such well has been legally established and constructed; *Provided*, That any person who has paid the tax for benefits assessed against him for such well shall be allowed the amount so paid, and the county treasurer or other officer authorized to receive payment for taxes assessed in any township or city shall accept the receipt, heretofore issued for the payment of such well taxes, as cash, the same to apply on such renewed assessment; the receipt so received by the county treasurer or other officer shall be credited to him and allowed as money.

CHAPTER VII.—WELLS TRAVERSING MORE THAN ONE COUNTY.

§ 1. PROCEEDINGS THE SAME IN EACH COUNTY.] Whenever it may be desired to construct a well traversing more than one county or affecting lands lying in more than one county, an appli-

cation therefor shall be made to the county well commissioner of either county traversed by the proposed well. Such application shall be subject to the same conditions and the applicants to the same obligations and liabilities as in other wells under this act.

§ 2. WELL COMMISSIONERS TO ACT JOINTLY—WHEN.] If upon examination the commissioner shall deem the same to be necessary and for the good of the public convenience or welfare, he shall as soon as practicable thereafter fix a time and place of meeting, and notify the county well commissioner or commissioners of such other county or counties to that effect, and furnish him or each of them with a certified copy of such application. Such commissioner or commissioners shall at the time and place fixed as above meet with the well commissioner having the original application, and they shall thereupon and thereafter jointly take all steps and perform all acts and sign all papers, as well commissioners are required to do, singly in the case of other wells including the application to the district court.

§ 3 SPECIAL COMMISSIONERS TO BE APPOINTED—WHEN AND HOW.] In case all the persons whose lands are traversed by such well as proposed in this chapter shall not, within twenty days after the issue of the order of determination as provided in section five of chapter three, have voluntarily released the right of way therefor, and all damages on account thereof, the said commissioners shall apply to the judge of probate of each county in which any such unreleased lands may be situated, for the appointment of three special commissioners. When such application shall be made, and when all papers shall have been found to be in conformity with the provisions of this act, the court to whom such application has been made shall appoint such special commissioners, and shall deliver to each well commissioner a certified copy of the order of the appointment of such special commissioners. Such special commissioners shall be resident freeholders of the county in which they are appointed. All proceedings had in the appointment of special commissioners under the provisions of this chapter shall be similar to those provided in chapter three, for the appointment of other special commissioners.

§ 4. SPECIAL COMMISSIONERS' DUTIES SAME AS HEREINBEFORE PROVIDED.] When such special commissioners shall have been notified of their appointment in the same manner as provided in chapter three, they shall at the time and place fixed by the district court meet with the well commissioner of their county and view the whole line of such well or such portion thereof as shall be deemed sufficient, and shall under the same oath and conditions perform their services in the same manner and with like effect as hereinbefore provided in this act for other special commissioners. Before any contract for the construction of any part of such well shall be let, the county well commissioners shall agree and determine upon the just per cent. of the whole cost of construction which each county shall bear, which determination shall be in

writing and signed by them, and a copy thereof made for each county well commissioner affected by said well.

§ 5. ASSESSMENT BY EACH COMMISSIONER AS HEREIN PROVIDED SUBJECT TO APPEAL.] Each commissioner shall thereupon assess within his own jurisdiction such amount as may have been determined upon, and shall assess against the townships such per cent. thereof as may be justly charged against them severally by reason of benefits to the public convenience or welfare, and the balance he shall apportion against the lands in proportion as they will be benefitted thereby. Each commissioner shall furnish such several assessments to the clerk of the county in which the lands affected thereby may be situated, and such assessments shall be computed, divided, spread, collected and returned in the same manner in every respect as provided in the case of other wells constructed under this act. Such assessments shall be subject to the same right of appeal and under the same conditions as hereinbefore provided. The taxes for such wells, when collected by the township treasurer, shall be paid over to the county treasurer of their respective counties, to be disbursed by him on the joint order of the commissioners.

§ 6. FULL RECORD OF WELLS TO BE MADE BY THE COMMISSIONERS.] A full record of such wells shall be made and entered by the several commissioners in the well record books of their respective counties, and all the papers relative to the construction of such wells not otherwise provided for in this act, shall be filed in the clerk's office of the county in which the application was originally made. The parts of each of such wells situated and lying in any one county shall thereafter be under the care and supervision of the county well commissioner of such county.

CHAPTER VIII.—MISCELLANEOUS.

§ 1. COUNTY CLERKS TO PROCURE BOOKS, BLANKS AND STATIONERY.] County clerks shall be authorized, and it shall be their duty, to procure at the expense of their respective counties the necessary books, blanks and stationery for the use of well commissioners, and each commissioner shall furnish, upon request, blank applications to any person who may desire to file an application for the locating of any well.

§ 2. COMPENSATION.] Well commissioners shall receive for their services a sum not to exceed three dollars per day for each day actually and necessarily spent by them in the discharge of the duties of their office, to be fixed by the board of county commissioners. Special commissioners shall receive the same compensation as the county well commissioners, and newspaper publishers shall receive legal rates for advertising.

The judge of probate shall receive ten cents per folio for making exemplified copies of any proceedings had in the probate court, two dollars for the appointment of special commissioners, including the certified copy of the order of their appointment,

and three dollars for all services performed in case a jury is had.

§ 3. ATTORNEY GENERAL TO DRAFT BLANK FORMS.] It shall be the duty of the Attorney General to draft, or cause the same to be done under his supervision, a complete set of all the blank forms that may be used or required under the provisions of this act.

§ 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 5. This act shall take effect from and after its passage and approval.

Approved, March 11, 1887.

ASSIGNMENTS.

CHAPTER 8.

AMENDING AND RE-ENACTING SECTION 2042 OF THE CIVIL CODE.

AN ACT to Amend and Re-enact Section Two Thousand and Forty-two (2042), of the Civil Code of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. That section two thousand and forty-two (2042) of the Civil Code be amended and re-enacted so as to read as follows, to-wit:

Sec. 2042. WHEN ASSIGNEE TO ACCOUNT.] After the lapse of six months from the date of filing his bond the assignee, on motion of any one of the creditors, with ten days' notice, accompanied by an affidavit of the creditor, his agent or attorney, setting forth his claim, and the amount thereof, and that no account has been filed within six months, may be ordered by the court, or by the judge thereof, at any place in his judicial district, to render an account of his proceedings, within a given time, to be fixed by the court, or the judge thereof, not to exceed fifteen days.

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 5, 1887.

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CHAPTER 9.

AN ACT To Amend Section 2042, of Title 3, of Part 2, of the Civil Code,
in Relation to Assignments for the Benefit of Creditors.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHEN ASSIGNEE TO ACCOUNT—SUBJECT TO ORDER OF COURT.] That section two thousand and forty-two (2042) of the Civil Code is hereby amended by adding thereto the following: All proceedings under this title shall be subject to the order and supervision of the judge of the district court of the county in which such assignment was made, and such judge may, from time to time, in his discretion, on the petition of one or more of the creditors, by order, citation, attachment or otherwise, require any assignee or assignees to render accounts and file reports of his or their proceedings and of the conditions of such trust estate, and may order or decree distribution thereof; and such judge may, in his discretion, for cause shown, remove any assignee or assignees and appoint another or others instead, who shall give such bonds as the judge, in view of the conditions and value of the estate, may direct, and such order or removal and appointment, shall in terms transfer to such new assignee or assignees all the trust estate, real, personal and mixed, and may be recorded in the deed records in the office of registers of deeds of any county wherein any real estate affected by the assignment may be situated. And such judge may by order, which may be enforced as upon proceedings for contempt, compel the assignee or assignees so removed to deliver all property, money, choses in action, book accounts and vouchers, to the assignee or assignees so appointed, and to make, execute and deliver to such new assignee or assignees such deeds, assignments and transfers as such judge may deem proper, and to render a full account and report of all matters connected with such trust estate. Whenever any assignee so removed shall have fully accounted for and turned over to the assignee or assignees appointed by the judge all the trust estate and made full report of all his doings, and complied with all orders of the judge touching such estate, and, also, whenever an assignee has fully complied with his trust, he may by order of the judge be fully discharged from all further duties, liabilities and responsibilities connected with the trust. In either case he shall give notice by publication in some newspaper of the county, if there be one printed and published therein, if not, in a newspaper published at the capital of the Territory, once in each week, for at least three weeks, that he will apply to such judge for such discharge, at a time and place to be stated in such

notice, which time shall not be more than three weeks after the last publication of the notice. If upon the hearing the judge shall be satisfied with [that] the assignee is entitled to be discharged, he shall make an order accordingly; or if, in the opinion of the judge, anything remains to be done by such assignee, he may require the performance thereof before making such order. Such order shall have the effect of discharging the assignee and his sureties from all further responsibility in respect to the trust, and such order shall not be refused on account of any failure on the part of the assignee to comply with the formal provision of law, where no loss or damage to any one shall have occurred through such failure. Whenever the trust estate shall have been taken out of the hands of the assignee by proceedings in bankruptcy in the federal court, the assignee may in like manner be discharged, upon showing that he has fully accounted with the assignee in bankruptcy, and turned over to him the whole of the trust estate.

§ 2. This act shall take effect and be in force from and after its passage and approval, and apply to all such assignments heretofore made in this Territory.

Approved, March 11, 1887.

AUDITOR.

CHAPTER 10.

CREATING THE OFFICE OF COUNTY AUDITOR.

AN ACT Creating the Office of County Auditor and Defining the Duties Thereof.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **How APPOINTED.**] Whenever the county commissioners of any county within the Territory of Dakota in which the office of county auditor does not now exist, shall declare by resolution, at any regular meeting, that a county auditor is necessary for the proper and expeditious dispatch of public business in their respective county, said commissioners, together with the probate judge and treasurer of their county, may appoint a legally qualified person county auditor, who shall hold and discharge the duties of

such office until the first Monday of January after the first general election next succeeding the time of his appointment, and until his successor is elected and qualified; *Provided*, That if a majority of the electors of any county, as evidenced by the vote cast at the last preceding election, shall present a petition remonstrating against the creation of the office of county auditor, to the board of commissioners of such county, the office shall not be created for one year thereafter. *And provided, further*, That no such appointments shall be made on the first day of the meeting of the board.

§ 2. WHEN ELECTED.] That at the next general election after the appointment of a county auditor, as provided by section one of this act, there shall be elected in such county a county auditor, who shall hold his office for two years from the first Monday in January succeeding his election and until his successor is elected and qualified.

§ 3. BOND.] Each county auditor, previous to entering upon the discharge of the duties of his office, shall qualify by giving a bond to the Territory of Dakota, with two or more sureties, to be approved by the board of county commissioners, in such penal sum, not less than two thousand dollars nor more than twenty thousand dollars, as the said commissioners require, conditioned for the faithful performance of the duties of his office, and shall take and subscribe the oath required by law, to be endorsed upon said bond, which bond so endorsed shall be filed and recorded in the office of the register of deeds of such county.

§ 4. DUTIES OF AUDITOR.] The county auditor shall, by virtue of his office, be clerk of the board of county commissioners of his county, and keep an accurate record of their official proceedings, and carefully preserve all of the documents, books, records, maps and other papers required to be deposited or kept in his office, and prepare a financial statement of the county annually, unless otherwise ordered by the board of county commissioners, and carefully to do and perform all other acts and duties which may now or hereafter be required to be done or performed by the county clerks of the counties of the Territory of Dakota.

§ 5. SHALL KEEP CURRENT ACCOUNT WITH TREASURER.] He shall keep an accurate account current with the treasurer of his county, and when any person shall deposit with the auditor any receipt given by the treasurer for money paid into the treasury, the auditor shall file such receipt in his office and charge the treasurer with the amount thereof.

§ 6. SUCCESSOR IN OFFICE.] On going out of office he shall deliver up to his successor in office all the moneys, books, records, documents, maps, papers, vouchers and other property in his hands belonging to the county, and in case of the death of any county auditor, his personal representatives shall in like manner deliver up all such moneys, books, records, maps, documents and other property.

§ 7. AUDITOR TO ATTEST ALL CLAIMS.] In all counties where the office of county auditor is created as provided by this act, no claim against the county shall be paid otherwise than upon the allowance of the county commissioners upon the warrant of the chairman of the board, attested by the county auditor, except it is authorized to be fixed by some other person or tribunal, in which case the sum shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the same; *Provided*, That no public money shall be disbursed by the county commissioners or any of them, but the same shall be disbursed by the county treasurer upon the warrant of the chairman of the board of county commissioners, attested by the county auditor, specifying the name of the party entitled to the same, on what account and upon whose allowance, if not fixed by law; and all such orders shall be progressively numbered, and the numbers, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, shall at the time of issuing the same be entered in a book kept by the auditor for that purpose.

§ 8. MAY APPOINT DEPUTIES.] County auditors are authorized to appoint deputy auditors, by a certificate in writing, who shall before entering upon the duties of their office take and subscribe the oath required, which oath shall be endorsed on the certificate of appointment and filed in the office of the register of deeds. Such deputies are authorized to sign all papers and do all other things which the auditors themselves may do. The county auditors shall be responsible for the acts of their deputies, and may revoke their appointment at any time. They shall require bonds of their deputies in such amounts and with such sureties as they may deem proper.

§ 9. VACANCY—HOW FILLED.] When from any cause a vacancy occurs in the office of county auditor, the same shall be filled in the manner prescribed by law for filling vacancies in other county offices.

§ 10. WHO MAY BRING ACTION.] An action may be brought against the county auditor and his sureties in the name of the Territory of Dakota, and for its use, or for the use of any county or person injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law.

§ 11. LIABLE TO COUNTY COMMISSIONERS.] If any county auditor fails to make settlement or pay over all moneys with which he stands charged at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence action against such auditor and his sureties in the district court of said county or other court of competent jurisdiction, and he shall be proceeded against as now provided by law for proceeding against other county officers. In case of suspension under the provisions of this section, such auditor, if restored to office,

shall not be deprived of his salary during the time of suspension, and his reasonable expenses of his defense, upon such hearing, shall be paid by the county. If upon trial of such action, such auditor is adjudged guilty of any neglect of duty, the office shall be deemed to be vacant.

§ 12. WHO SHALL BE ELIGIBLE.] No county commissioner, probate judge, register of deeds, or county treasurer shall be eligible to the office of county auditor.

§ 13. COUNTY CLERK TO BECOME AUDITOR IN CERTAIN CASES.] In all counties where the office of county auditor is now provided by law, it shall continue in force under this act, and the county clerk, where distinct from the register of deeds, shall become county auditor under this act.

§ 14. SALARY.] The salary of the county auditor shall be regulated by the value of the property in their respective counties, as fixed by the Territorial Board of Equalization for the preceding year, as follows: In counties where the amount of taxable property does not exceed the sum of one and one-half million dollars, they shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one mill on each dollar of all amounts in excess of said last named sum, and less than two hundred thousand dollars, and one-tenth of one mill on each on [of] all sums in excess of said last named sum. In counties where the value of taxable property for the preceding year, as fixed by said Board of Equalization, exceeds the sum of one and one-half million dollars, the county auditor shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one-third of one mill on each dollar in excess of said sum, and less than two million dollars, and one-fifth of one mill on each dollar of all sums in excess thereof; *Provided*, That no county auditor shall receive more than fifteen hundred dollars per annum for his personal services in counties where the valuation does not exceed four million dollars, nor more than two thousand dollars in counties where the valuation exceeds four million dollars; and all moneys received as fees or percentage in excess of the amounts provided for in this act, shall be paid by the auditor at the end of each year into the revenue fund of the county.

§ 15. CLERK HIRE.] The allowance for clerk hire, in all cases, shall be for actual services rendered and shall be allowed and paid in the discretion of the board of county commissioners, the same as all similar claims against the county, and in no case shall the auditor be allowed clerk hire unless such services have been rendered; *Provided*, That no clerk hire shall be allowed except in counties having an assessed valuation of two million dollars or over.

§ 16. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 17. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, Dak., March 11, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

BONDS.

CHAPTER 11.

AUTHORIZING INCORPORATED BOARDS OF EDUCATION OR SCHOOL DISTRICTS TO REFUND OUTSTANDING INDEBTEDNESS.

AN ACT To Provide for Refunding the Outstanding Indebtedness Which Existed Prior to July 30, 1886, of any Incorporated Board of Education or School District in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHAT INDEBTEDNESS MAY BE REFUNDED.] All bonds, warrants, orders or other evidences of indebtedness heretofore issued by any incorporated board of education or school district, prior to July 30, 1886, under and by authority of any special or general law, may be refunded in the discretion of the proper officers of such incorporated board of education or school district, in the manner hereinafter provided, whenever there is not sufficient money in the treasury of such incorporated board of education or school district legally applicable thereto, to pay such bonds, warrants, orders or other evidences of indebtedness.

§ 2. BONDS, HOW ISSUED.] Said bonds shall be in denominations of not less than \$100, nor more than \$1,000, and shall be numbered consecutively, and shall bear date of their issue, and shall be made payable to the purchaser, or bearer, and shall be made payable not less than ten nor more than twenty years from their date of issue, and shall bear a rate of interest not exceeding seven (7) per cent. per annum, payable annually or semi-annualy, as shall be agreed upon by the parties interested, and shall have interest coupons attached, representing each interest payment, and principal and interest shall be made payable at such place as

be agreed upon by the contracting parties. Said bonds shall be printed, lithographed or engraved on good bond paper, and a duly authenticated copy of this act shall be printed on the back of each bond, and they shall recite upon their face that they have been issued under and by authority of this act (naming it by its title, and giving the date of its approval).

§ 3. **BONDS AUTHORIZED BY ELECTION.]** Bonds issued under the provisions of this act shall be authorized, in the case of an incorporated board of education, after the issuance of bonds shall have been approved by an election, as hereinafter provided by a resolution of the board of education, and said bonds shall be executed by the president and attested by the clerk thereof, and the seal of said board of education shall be affixed thereon; and in the case of a school district they shall be authorized by a resolution of the school board, and shall be executed by the president or director of such board, as the case may be, and attested by the clerk thereof.

§ 4. **BONDS, HOW NEGOTIATED.]** The officers authorized by the provisions of this act to authorize the issuance of the bonds, shall provide for the sale and negotiation thereof, or for the exchange of said bonds for the outstanding bonds, warrants, orders or other evidences of indebtedness authorized to be refunded under this act, as they may deem best, provided that such refunding bonds shall not be sold or exchanged for less than their par value.

§ 5. **BOND REGISTER TO BE KEPT.]** A register of all bonds issued under the provisions of this act shall be made by the clerk of the board issuing them, and shall be kept in his office as a public record, showing the number, date, amount, rate of interest (whether payable annually or semi-annually) and the time and place of payment, of all bonds so executed and issued.

§ 6. **REGISTRATION AND CANCELLATION.]** And after such outstanding bonds, warrants, orders, or other evidences of indebtedness, shall have been so refunded, the same shall be registered in the manner hereinbefore provided for bonds issued under the provisions of this act, and shall be canceled by writing across the face of each bond, warrant, order, or other evidence of indebtedness, the words: "Paid by refunding bond No., this day of, 188..," (inserting the number, date and amount) and the clerk shall carefully preserve such refunded evidences of indebtedness.

§ 7. **TAX FOR PAYMENT OF INTEREST.]** At the same time that other taxes are levied there shall be levied annually on the taxable property of any school district or city whose incorporated board of education is authorized to levy taxes upon the taxable property therein, for the support and maintenance of the schools therein, a tax sufficient to pay the interest on such bonds as the same becomes

§. and after seven (7) years from the date of such bonds in ad-
its pa^t thereto, annually a sinking fund tax sufficient to pay the

principal of such bonds when they mature, which tax shall become due and be collected the same as other taxes.

§ 8. MATURED BONDS TO BE PAID ON PRESENTATION.] When said bonds and the several interest coupons thereto attached mature, it shall be the duty of the treasurer of such incorporated board of education or school district issuing them, to pay the same on presentation and to cancel them as hereinbefore provided for the cancellation of refunded bonds, warrants, orders or other evidences of indebtedness.

§ 9. NOTICE OF ELECTION—WHAT TO CONTAIN.] The question of refunding such bonds, warrants, orders or other evidences of indebtedness, shall first be submitted to a vote of the qualified electors of the town or city wherein said board of education shall be situated, or doing business, or in said school district, by giving twenty (20) days' notice of such submission, by posting up written notices in three (3) of the most conspicuous and public places within the limits of such board of education or school district, and by publishing said notice for twenty (20) days, in a newspaper published in the county, giving the time and place of holding such election, and the amount of bonds to be issued in refunding, the rate of interest which they shall bear, and the length of time they shall run, and the voting shall be done by means of written or printed ballots, and all ballots deposited in favor of issuing the bonds shall have thereon the words: "For issuing bonds in the amount of \$....," (naming the amount) and those opposed thereto shall have thereon the words: "Against issuing bonds," and if two-thirds ($\frac{2}{3}$) of all the votes cast shall be in favor of issuing bonds, the proper officers shall forthwith proceed to issue bonds in accordance with the votes cast, but if one-third ($\frac{1}{3}$) of all the votes cast are opposed to issuing bonds, then no further action can be had and the question shall not again be submitted to a vote for one year thereafter; *Provided*, That no school district in which less than twenty-five legal votes were cast at the annual school election next preceding the election herein provided for, shall avail themselves of the provisions of this act.

§ 10. All acts or parts of acts, whether general or special provisions of the charter of any incorporated board of education or city, in conflict with the provisions of this act are hereby repealed.

§ 11. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 12.

AUTHORIZING CITIES TO REFUND OUTSTANDING BONDED IN-
DEBTEDNESS.

AN ACT Authorizing Cities to Refund Outstanding Bonded Indebtedness.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **BONDS MAY BE REFUNDED.**] All bonds heretofore issued by any city, or by or under the authority of the board of education of any city in this Territory for school or school house purposes, may be refunded in the discretion of said board in the manner hereinafter provided, whenever there is not sufficient money in the treasury of such city to pay such bonds, and legally applicable thereto.

§ 2. **DENOMINATION OF BONDS.**] Said bonds shall be in denominations of not less than one hundred nor more than one thousand dollars, shall be numbered from one upward consecutively, shall bear the date of their issue, shall be made payable to the purchaser or bearer, shall be payable ten years from date, and shall bear interest at a rate not exceeding seven per cent. per annum, payable annually, with interest coupons attached, and principal and interest shall be made payable at such place as may be designated by the board of education. The bonds and each coupon shall be signed by the mayor and attested by the city clerk, under the seal of the city. Said bonds shall be printed, engraved or lithographed on good bond paper, and a duly authenticated copy of this act shall be printed on the back of each bond.

§ 3. **BOARD OF EDUCATION TO LEVY TAX.**] The board of education shall levy each year upon the taxable property of such city a tax sufficient to pay the interest on said bonds as the same accrues, and after five years from the date of said bonds, an annual sinking fund tax, sufficient for the payment of said bonds at maturity, which taxes shall become due and be collected the same as other city taxes.

§ 4. **BONDS, HOW EXECUTED.**] The refunding of indebtedness and the issuance of bonds provided in this act shall be under the control and direction of the board of education, and a resolution of said board directing the execution of such bonds, and specifying the number and amount of each bond, shall authorize and require the mayor and city clerk to execute the same in the manner herein provided, and deliver the bonds so executed to the board of education, who shall provide for the sale and negotiation

thereof, or for the exchange of said bonds for outstanding bonds authorized to be refunded under this act, as they may deem best; *Provided*, That such refunding bonds shall not be sold or exchanged at less than par value. Both principal and interest of said bonds shall be paid by the city treasurer by warrants drawn upon the funds created therefor, and issued under the direction of the board of education. A duly certified copy of the resolution of the board of education, authorizing and directing the execution of such bonds by the mayor and city clerk, shall be printed on the back of each bond. A register of all bonds so executed shall be made by the city clerk and kept in his office as a public record, showing the number, date, amount, interest, name of payee, and when and where payable, of each and all bonds executed under the provisions of this act. And after such outstanding bonds shall have been so refunded, the same shall be placed in the hands of the city clerk, after having been first marked across the face thereof in red ink the words, "refunded bond;" and the city clerk shall thereupon make a record of each bond in the same manner provided herein, for bonds issued under this act, and at the next regular meeting of the city council shall cancel and burn said bonds in the presence of the city council, and make a record of such action in the proceedings of the council.

Approved, March 8, 1887.

CHAPTER 13.

AUTHORIZING COUNTIES TO FUND OUTSTANDING INDEBTEDNESS.

AN ACT Entitled an Act Authorizing and Empowering the Organized Counties of Dakota to Issue and Dispose of Bonds to Provide Funds to pay Outstanding Indebtedness, and to Provide for the Payment of the Principal and Interest Thereof.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COUNTY COMMISSIONERS TO ISSUE BONDS.] Each and every organized county of this Territory is hereby authorized and empowered by and through its board of county commissioners, when in the judgment of said board it is deemed to be to the best interests of the county, to issue its negotiable bonds in the name of the county corporation, for the sole purpose of funding the outstanding indebtedness, which existed against such county on the first (1st) day of January, 1887; *Provided*, That no bonds shall be issued under the provisions of this act to pay or fund any indebtedness, except such

as is represented by the legally issued county warrants or orders of such county, issued since January first (1st), 1880. Said bonds shall be in denominations of not less than one hundred (100) dollars, nor more than one thousand (1,000) dollars, shall bear the date of their issue, shall be made payable to the purchaser or bearer, and shall be made payable in not less than five (5) nor more than fifteen (15) years from their date, and bear interest at the rate of not exceeding seven (7) per cent. per annum, payable semi-annually, with coupons attached for each interest payment; *Provided*, That no bonds shall be issued under the provisions of this act to provide money, to pay, or to fund any indebtedness created after July twenty-ninth (29th), 1886, which in the aggregate, including the then existing indebtedness, exceeded four (4) per centum on the value of the taxable property within such county, to be ascertained by the last assessment for territorial and county taxes, previous to the incurring of such indebtedness. The bonds and each coupon shall be signed by the chairman of the board of county commissioners, and shall be attested by the county clerk; *Provided*, That in counties having an auditor, the attestation shall be made by the auditor. The seal of the county shall be affixed to each bond, but not to the coupons. Said bonds shall be printed, engraved or lithographed on good bond paper, and each bond shall state on its face that it is issued in accordance and in strict compliance with an act of the Legislative Assembly of the Territory of Dakota, entitled "An act authorizing and empowering organized counties of Dakota Territory to issue and dispose of bonds, to provide funds to pay outstanding indebtedness, and to provide for the payment of the principal and interest thereof." Approved.....1887; (inserting date of the approval of this act,) and a copy of this act shall be printed on the back of each bond. Said bonds may be made payable anywhere in the United States.

§ 2. BONDS—HOW SOLD.] Said bonds may be exchanged at not less than their par value for an equal amount of the orders or warrants permitted to be funded under the provisions of section one (1) of this act of the county issuing them; or said bonds may be sold by the board of county commissioners, at not less than their par value, and the proceeds applied solely to the payment of such indebtedness. When such warrants are so taken up and paid by the issue of bonds, as herein provided for, such warrants shall be marked "Paid by bond No." (giving number of bond) and shall be retained by the county treasurer until his settlement with the county commissioners, and shall then be carefully compared with the bond register, and after such comparison shall be placed in the custody of the county auditor or county clerk, and it shall be his duty to preserve the same. The county treasurer shall endorse upon each warrant so taken up and paid, the amount of interest allowed thereon.

§ 3. TAX FOR INTEREST AND SINKING FUND.] The board of

county commissioners shall each year levy upon the taxable property of the county, a sufficient tax to pay the interest on said bonds, as the same accrues, and a reasonable time before maturity, a sufficient tax to provide a sinking fund for the payment of the bonds when they mature.

§ 4. COUNTY TREASURER TO PAY INTEREST AND BONDS.] When said bonds and the several coupons thereto attached mature, it shall be the duty of the county treasurer to pay the same on presentation, out of any funds in his hands applicable thereto, and shall cancel them, when paid, by writing or stamping across the face of each coupon or bond the words: "Cancelled by payment this day of (inserting the date of payment)."

§ 5. FEES OF TREASURER.] The county treasurer shall be allowed a commission of one-half of one per cent. on the par value of said bonds, for receiving and disbursing all funds arising from the sale or exchange of said bonds, and the commission herein provided for, shall be in lieu of all other commissions allowed him by law.

§ 6. COUNTY TREASURER TO REGISTER BONDS.] Before the bonds are delivered to the purchaser they shall be presented to the county treasurer, who shall register them in a book to be kept for that purpose, and known as the bond register, in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable.

§ 7. BONDS—HOW ISSUED.) No bonds in excess of twenty thousand (20,000) dollars shall be issued by any one county under the provisions of this act, until the issuance of the same is authorized by a majority vote of the qualified electors of such county at a special election to be called for that purpose by the board of county commissioners. Notice of such election shall be given in the manner provided by law for conducting special elections, and such notice shall state the amount of bonds to be issued, when payable and the rate of interest they are to bear. The voting shall be done by written or printed ballots, and all ballots deposited in favor of issuing bonds shall have thereon the words "For issuing bonds," and those opposed shall have thereon the words "Against issuing bonds," and if a majority of all votes cast shall be in favor of issuing bonds, the board of county commissioners shall forthwith proceed to issue the bonds in accordance with the vote and the provisions of this act. The election in all other respects shall be conducted in accordance with the law regulating general elections.

§ 8. BONDS TO BE NEGOTIABLE.] Bonds issued in substantial conformity to this act shall in law be considered negotiable.

§ 9. All acts or parts of acts in conflict with this act are hereby repealed.

§ 10. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, Dak., March 7, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of Representatives of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 14.

MODE OF CALLING IN BONDS FOR PAYMENT.

AN ACT Providing for the Mode of Calling in of Public Bonds for Payment, and Fixing the Time When Interest Thereon Shall Cease.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHEN BONDS MAY BE CALLED IN FOR PAYMENT.] Whenever any Territorial, county, township, city, school or other public bonds shall become payable under any option or provision therein contained, it shall be lawful for the Treasurer of this Territory or of the county, township, city, school or other public corporation as the case may be, issuing such bonds or responsible for their payment, to call in the same for payment and cancellation in the manner hereinafter provided, and after the time specified in such call, for presentation of such bonds shall have expired, all interest thereon shall cease.

§ 2. CALL—HOW MADE.] Such call shall contain a description of such bonds, giving their date, number and amount, and stating by whom issued and to whom, and where payable, and shall also state that on and after a specified date not less than thirty nor more than sixty days after the date of such call, all interest on such bonds shall cease.

§ 3. CALL TO BE PUBLISHED.] Service of such call shall be made by publication thereof for fifteen consecutive days, in some daily, or for four consecutive weeks in some weekly newspaper published and of general circulation in the county in which such bonds are payable; *Provided*, That personal service of such call upon the holder or holders of such bonds shall be equivalent to service of the same by publication.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. This act shall take effect and be in force on and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 15.

PROVIDING FOR ISSUING OF DUPLICATES OF BONDS DESTROYED.

AN ACT To Provide for the Issuing of Duplicates of Bonds or Coupons Lost or Destroyed.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. DUPLICATION OF IN CASE OF LOSS.] In case of the loss or destruction of any Territorial, county, township, city, school or other public or municipal bonds, or any coupons attached or belonging to such bonds, or representing any part of the consideration or interest thereof, the owner thereof shall be entitled to receive duplicates of such bonds or coupons so lost or destroyed, from the Treasurer of this Territory, or the clerk of such county, township, city, school or other public or municipal corporation, as the case may be, upon complying with the provisions of this act.

§ 2. TIME LIMITED.] Within thirty days after the loss or destruction of such bonds or coupons, the owner thereof shall cause to be published in some newspaper published in the capital of this Territory, in case of the loss or destruction of any Territorial bonds, or in case of the loss or destruction of any bonds or coupons mentioned in section 1 of this act, other than Territorial bonds, in some newspaper published in the county where such bonds were issued, or in case no newspaper is published in said county, in the newspaper published in the county nearest thereto, notice of the loss or destruction of such bonds or coupons, which notice shall contain a description of all bonds or coupons so lost or destroyed, the number, series, amounts, date, term and purpose for which the same were issued, as well as the fact that application has been made for the issuance of duplicates in place and stead thereof, under the provisions of this act. Said notice shall be published for ten consecutive days in a daily or for two consecutive weeks in a weekly newspaper; *Provided*, however, that in case of the loss or destruction of any such bonds or coupons which has already occurred, such notice may be published within thirty days after the passage and approval of this act.

§ 3. PROOF OF NOTICE REQUIRED—BOND FOR DAMAGES.] Such owner or person entitled to receive the benefit of this act shall file with the Treasurer of this Territory, in case of the loss or destruction of Territorial bonds or coupons, and with one of the officers named in section 1 of this act in case of the loss or destruction of other bonds or coupons therein mentioned, proof of the due pub-

lication of the notice required in section 2 of this act, together with a good and sufficient bond, to be approved by such officer, in double the amount of such bonds or coupons so lost or destroyed, executed by such owner with two or more good and sufficient sureties, each of whom shall be resident freeholders of this Territory and shall justify in double the amount of such bonds, such justification to be made in the same manner as under the chapter entitled "Arrest and bail," conditioned upon the payment to the Territory of Dakota, or to such county, township, city, school or other public or municipal corporation, as the case may be, of all damages, costs or other disbursements and expenses which may be occasioned or arise out of the issuance of duplicate bonds or coupons under the provisions of this act, or on account of such bonds or coupons so lost or destroyed. Such owner shall also furnish to the officer to whom the application is made for the issuance of duplicates under this act, satisfactory proof that he is the owner or person entitled to receive the issuance of such duplicates.

§ 4. NEW BONDS OR COUPONS TO ISSUE.] Upon complying with the foregoing provisions, the Secretary of this Territory, in case of Territorial bonds or coupons, or the clerk of such county, township, city, school or other public or municipal corporation, as the case may be, shall, if satisfied that the provisions of this act have been complied with and that such applicant is entitled to receive the benefit hereof, issue to him duplicate bonds or coupons for each and every one of such bonds or coupons so lost or destroyed, which shall be dated and numbered the same as those so lost or destroyed, and in all respects exact duplicates thereof, except that the said duplicate bond or coupon shall be stamped on its face "duplicate bond (or coupon) issued in place and stead of bond (or coupon) of even date and number, lost or destroyed, issued by virtue of an act of the Legislature of the Territory of Dakota, approved (insert day and month) 1887," and such officer shall thereupon make the proper entry in his books, showing the cancellation of such bonds or coupons so lost or destroyed, and the issuance of duplicates thereof, which duplicates shall, from the date of their issuance, have the same value, force and effect as the bonds or coupons so lost or destroyed.

§ 5. This act shall take effect and be in force from and after its passage and approval.

Approved, February 15, 1887.

CHAPTER 16.

MUNICIPAL CORPORATIONS MAY ISSUE BONDS FOR SCHOOL AND OTHER PURPOSES.

AN ACT Entitled an Act to Provide for the Issuance of Bonds by Cities and Municipal Corporations in the Territory of Dakota for School and Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BONDED INDEBTEDNESS—FOR WHAT PURPOSES MAY BE INCURRED.] Any city or municipal corporation in this Territory, organized under and by virtue of a special charter, or under and by virtue of the general law of this Territory, may incur a bonded indebtedness for the purpose of erecting public school buildings and other buildings for city purposes, purchasing fire apparatus, putting in water works, sinking public wells or cisterns, and putting in sewers, and improving streets, which said indebtedness, together with the indebtedness which then exists, shall not exceed four per cent. of the assessed valuation of said city or municipal corporation, as shown by the returns of the assessor for the year next preceding the time at which said indebtedness shall be incurred.

§ 2. BONDS—HOW ISSUED—ELECTION.] The bonds issued for the purposes mentioned in section one of this act shall be issued by the common council or board of trustees of any city or municipal corporation, only upon a majority vote of the qualified electors of such city or municipal corporation, at an election regularly called for that purpose and in accordance with the provisions of the charter of such city or municipal corporation governing the issuance and sale of bonds; *Provided*, That in all cities and municipal corporations where the charter does not provide the manner of calling and holding an election for the purpose aforesaid, a special election shall be called and held as herein provided, or said question may be submitted to any annual election. The city council or board of trustees at any regular meeting thereof may decide to call a special election to vote bonds for any of the purposes stated in section one of this act, and they shall give at least fifteen days public notice of such election, by at least two publications thereof, in a weekly newspaper published in said city, or if there be no such newspaper, then by posting said notice in five public places in said city. Said notice shall state the amount and denomination of the bonds

to be voted for, the rate of interest thereof, the purpose for which said bonds are to be issued, the form of the ballots to be used, and the time and place of holding said election. That the judges and clerks shall be appointed, and said election shall be conducted, as provided by the charter of said city for conducting annual elections, and the returns shall be canvassed and in like manner returned, and, *Provided*, That this act shall not be construed to limit or restrict the powers already conferred by any special charter upon the council of any city or municipal corporation.

§ 3. BONDS NOT TO BE SOLD BELOW PAR.] That the bonds voted, as provided for in this act, shall be sold at not less than par value.

§ 4. All acts or parts of acts in conflict herewith are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage and approval.

Approved, March 8, 1887.

CHAPTER 17.

AUTHORIZING THE REFUNDING OF TERRITORIAL BONDED IN- DEBTEDNESS ISSUED IN 1881.

AN ACT Entitled an Act for the Refunding of the Outstanding Bonded Indebtedness of the Territory, Issued in 1881, Bearing six per cent., for the Construction of the Insane Hospital at Yankton, and the Penitentiary at Sioux Falls, and the Five per cent. Bonds Issued for the Construction of the West Wing of the Insane Hospital at Yankton.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHAT BONDS TO BE REFUNDED.] That the Territory of Dakota hereby declares its option to pay and redeem on or before July 1, A. D. 1887, the outstanding six per cent. bonds, issued for the construction of the Sioux Falls Penitentiary, and the construction of the Insane Hospital, dated May 1, A. D. 1881, also the five per cent. bonds, dated May 1, 1883, issued for the construction of the west wing of the Insane Hospital at Yankton, the total amount being one hundred sixty-seven thousand and five hundred dollars.

§ 2. REFUNDING BONDS—HOW ISSUED.] For the purpose of the payment and redemption of said outstanding indebtedness bonds of this Territory to the amount of one hundred sixty-seven thousand and five hundred dollars shall be issued, in denominations of five hundred dollars each, bearing date May 1st, A. D. 1887, with

interest payable semi-annually at some place in New York city, in the State of New York, to be specified in said bonds, on the first days of July and January of each year, at a rate of interest not to exceed four and one-half per cent. per annum, running twenty years, payable at the option of the Territory, at any time after ten years from the date of the same.

§ 3. **TREASURER TO NEGOTIATE.]** Such bonds shall be executed for the Territory, under the seal thereof, by the Governor and Treasurer; shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 4. **PROPOSALS.]** It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in three newepapers of general circulation, one of which shall be published in the Territory, one in Chicago, of the state of Illinois, and one in New York city, in the state of New York, and said bonds shall be sold to the highest bidder for cash.

§ 5. **PAYMENT OF INTEREST.]** For the purpose of prompt payment of principal and interest of said bonds, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied, and collected in the same manner as other territorial taxes, such sums as shall be sufficient to pay such interest and the exchange thereon; and after ten years from the first day of May, A. D. 1887, in addition thereto a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity, and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year such interest as shall then be due, and to redeem and pay said bonds, and retire and cancel same with the sinking fund tax, as fast as such sinking fund shall be received.

§ 6. **OPTION TO REDEEM OUTSTANDING BONDS.]** And for the purpose of the payment of the outstanding six per cent. bonds dated May 1, 1881, issued for the construction of the Insane Hospital at Yankton and the Penitentiary at Sioux Falls, also the five per cent. bonds dated May 1, A. D. 1883, for the construction of the west wing, etc., of the Insane Hospital at Yankton. It is hereby made the duty of the Territorial Treasurer immediately upon negotiating said four and half per cent. bonds and receiving the proceeds of such sale, to declare the option of the Territory to redeem and pay off said five and six per cent. bonds, by immediately notifying the holder or holders thereof to present the same for payment at the Treasurer's office, on or before July 1, A. D. 1887, after which date interest will cease upon the same, as they are now declared to be due and payable both principal and interest.

§ 7. **BOND HOLDERS TO BE NOTIFIED HOW.]** And in case the holders of such bonds are not known to the Territorial Treasurer, and their residence cannot be ascertained so as to reach the same by a direct notice, then the above notice properly dated and signed by the Territorial Treasurer shall be published in a news-

paper of general circulation in this Territory, and in the City of New York, and shall also be posted in the office of said Territorial Treasurer.

Approved, March 11, 1887.

BRIDGES.

CHAPTER 18.

CONSTRUCTION OF BRIDGES OVER NAVIGABLE RIVERS PERMITTED.

AN ACT Permitting the Construction of Bridges Over Navigable Rivers, and Providing the Manner of Paying for the Same.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PETITION—DUTY OF COUNTY COMMISSIONERS.] That whenever one-third of the resident taxpayers of any county of this Territory, as shall appear by the last preceding assessment roll of such county, shall petition the board of county commissioners of said county, praying for an appropriation to build a bridge across any navigable river on the line of said county, setting forth therein the location of such bridge, as near as may be, its estimated cost, and the necessity therefor to accommodate the general traveling public, the manner in which it is proposed to pay for said structure, and the time when it will be completed, said petition to be duly verified by the affidavits of at least fifteen of the petitioners therein named, it shall be the duty of said board of county commissioners to publish a notice in the official paper of said county once weekly for three weeks, briefly stating the subject of said petition, and that the same will be heard and considered at the next regular monthly meeting of said board. At the time appointed for the hearing of said petition the said board of county commissioners shall, and it is hereby made their duty to investigate the need for said bridge, and finding the same to be demanded for the accommodation of the traveling public, shall by resolution duly entered upon the minutes of said board, appropriate toward the building of such bridge, from the county treasury, a sum not exceeding one-half of the estimated cost of such bridge, to be paid as hereinafter pro-

vided; *Provided, however*, That the appropriation hereinbefore mentioned shall be conditional on a sufficient bond and guarantee of the remaining one-half or more, as the case may be, of the cost of such bridge; *Provided further*, That the consent of the general government to span said river shall first have been obtained.

§ 2. COUNTY AID CONDITIONAL.] If the remaining one-half of the cost of said bridge shall be made up by an appropriation from any neighboring state or by any municipality in this Territory, to be expended under a commission, or through any other fiduciary agency, it shall then be the duty of said board of county commissioners to appoint a committee of their own number, whether three or more, to meet such other municipal agency, confer with its members and advise and assist in the accomplishment of such improvement in the best possible manner, and when the work is completed and approved jointly by such agency and committee of the board of county commissioners, which approval shall be in writing and duly reported to such board and recorded in the minutes thereof, the board shall thereupon order the amount of the appropriation paid to the contractor or contractors of such improvement, by warrant upon the county treasury in the usual form and manner.

§ 3. MAY VOTE BONDS.] Where the one-half or such other proportion as may be, of the cost of such improvement, shall be provided for by any municipality within this Territory, it shall be lawful for such municipal corporation, by a majority vote of the legal voters thereof, after ten days notice to meet the necessary expense by the issuance of bonds bearing interest not to exceed seven per cent. per annum and not to run longer than twenty years after date of issue, nor to be sold for less than par value, interest payable semi-annually; *Provided*, That the limit of indebtedness of such corporation, under the act of congress of July 30, 1886, in relation to Territorial legislation, be not thereby exceeded. But if the limit of debt of such municipality would be thereby exceeded, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted, the share of the cost thereof to be borne by such municipality shall be paid out of the general fund, by orders drawn in the usual form and manner.

§ 4. COST OF BRIDGE LIMITED.] It is hereby provided that not more than one wagon bridge in each county so situated, shall be built under this act, and that the total cost of such bridge shall in no case exceed the sum of fifty thousand dollars.

§ 5. This act to take effect and be in force after its passage and approval.

Approved, March 11, 1887.

CHATTEL MORTGAGES.

CHAPTER 19.

REGULATING PROCUREMENT OF CHATTEL MORTGAGES IN CONNECTION WITH APPLICATION FOR INSURANCE.

AN ACT Regulating the Procurement of Chattel Mortgages in Connection With Applications for Insurance, and Providing a Penalty for Violation Thereof.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **MUST BE SEPARATE AND DISTINCT.**] It shall be unlawful for any insurance company, or any agent or solicitor therefor, within this Territory, to take, or procure to be taken, upon the property to be insured or any other property, a chattel mortgage securing the payment of the premium due or to become due (including policy fees) or any part thereof, unless such chattel mortgage shall be printed or written upon a separate and distinct paper from the application, and no mortgage given in violation of the provisions of this section shall be valid or binding upon the party executing the same, but shall in all things be null and void.

§ 2. **PENALTY.**] Any insurance company, or any agent or solicitor thereof, violating the provisions of this act, shall be deemed guilty of a misdemeanor. And such company shall further forfeit all its rights and privileges under its charter.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CIVIL ACTIONS.

CHAPTER 20.

METHOD OF APPEALS TO SUPREME COURT.

AN ACT Providing the Method of Appeals to the Supreme Court of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPEALS MAY BE TAKEN—WHEN.] Appeals to the Supreme Court may be taken from the district courts when no other court of appeal is provided by law.

§ 2. WRIT OF ERROR NOT NECESSARY.] No writ of error shall be necessary to bring up any judgment for review before the Supreme Court, but any judgment or any order defined in section twenty-three (23) of this act may be reviewed upon an appeal by the party aggrieved. The party appealing is called the appellant; the other, the respondent.

§ 3. APPEALS, HOW TAKEN.] An appeal must be taken by serving a notice in writing signed by the appellant or his attorney, on the adverse party, and on the clerk of the court, in which the judgment or order appealed from is entered, stating the appeal from the same, and whether the appeal is from the whole or a part thereof, and if from a part only, specifying the part appealed from. The appeal shall be deemed taken by the service of the notice of the appeal, and perfected on service of the undertaking for costs, or the deposit of money instead, or the waiver hereof, as hereinafter prescribed. When service of a notice of appeal and undertaking cannot in any case be made within this Territory, the court may prescribe a mode for serving the same.

§ 4. TRANSMISSION OF PAPERS BY CLERK.] Upon an appeal being perfected, the clerk of the court from which the appeal is taken shall, at the expense of the appellant, forthwith transmit to the Supreme Court, if the appeal is from a judgment, the judgment roll, if the appeal is from an order he shall transmit the order appealed from, and the original papers used by each party on the application for the order appealed from. The court may, however, in each case, direct copies to be sent in lieu of the originals. The clerk shall also, in all cases, transmit to the Su-

preme Court the notice of appeal and undertaking given thereon; and he shall annex to the papers so transmitted a certificate, under his hand and the seal of the court, from which the appeal is taken, certifying that they are the original papers or copies, as the case may be, and that they are transmitted to the Supreme Court pursuant to such appeal. No further certificate or attestation shall be necessary.

§ 5. DEPOSIT IN PLACE OF UNDERTAKING—RESPONDENT MAY WAIVE UNDERTAKING.] When the appellant is required, under any provision of this act to give an undertaking, he may in lieu thereof deposit with the clerk of the court in which the judgment or order appealed from is entered (who shall give a receipt therefor), a sum of money equal to the amount for which such undertaking is required to be given, and in lieu of the service of such undertaking, serve a notice of the making of such deposit. Such deposit and notice shall have the same effect as the service of the required undertaking, and be held to answer the event of the appeal upon the terms prescribed for the undertaking, in lieu of which the same is deposited. Any such undertaking and deposit may be waived in writing by the respondent for whose benefit the same is required to be made, and such waiver shall have the same effect as the giving of the undertaking would have had.

§ 6. APPELLANT MUST EXECUTE UNDERTAKING.] To render an appeal effectual for any purpose, and undertaking must be executed on the part of the appellant by at least two sureties, to the effect that the appellant will pay all costs and damages which may be awarded against him on the appeal, not exceeding two hundred and fifty dollars.

§ 7. STAY OF EXECUTION—ADDITIONAL UNDERTAKING REQUIRED] If the appeal be from a judgment directing the payment of money it shall not stay the execution of the judgment unless an undertaking be executed on the part of the appellant, by at least two sureties, to the effect that if the judgment appealed from, or any part thereof, be affirmed, the appellant will pay the amount directed to be paid by the judgment, or the part of such amount as to which the judgment shall be affirmed, if it be affirmed only in part, and all damages which shall be awarded against the appellant on appeal.

§ 8. EXECUTION OF JUDGMENT NOT TO BE DELAYED—EXCEPT WHEN.] If the judgment appealed from direct the assignment or delivery of documents or personal property, the execution of the judgment shall not be delayed by the appeal, unless the things required to be assigned or delivered be brought into the court or placed in the custody of such officer or receiver as the court or presiding judge thereof shall appoint, or unless an undertaking be entered on the part of the appellant, by at least two sureties in such sum as the court or presiding judge thereof shall direct, to the effect that the appellant will obey the order of the Appellate Court on the appeal.

§ 9. To EXECUTE CONVEYANCE.] If the judgment appealed from direct the execution of a conveyance or other instrument the execution of the judgment shall not be stayed by the appeal, unless the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the Appellate Court.

§ 10. To SELL AND DELIVER REALTY.] If the judgment appealed from direct the sale or delivery of possessions of real property (except in actions for foreclosure of mortgage), the execution of the same shall not be stayed unless an undertaking be executed on the part of the appellant, by at least two sureties, in such sum as the court or presiding judge thereof shall direct, to the effect that during the possession of such property by the appellant, he will not commit or suffer to be committed any waste thereon, and that if the judgment be affirmed, he will pay the value of the use and occupation of the property, from the time of the appeal until the delivery of possession thereof, pursuant to the judgment.

§ 11. DIRECTING THE SALE OF MORTGAGED PREMISES.] If the judgment appealed from direct the sale of mortgaged premises, the execution thereof shall not be stayed by the appeal, unless an undertaking be executed on the part of the appellant, by at least two sureties, conditioned for the payment of any deficiency which may arise on such sale, not exceeding such sum as shall be fixed by the court or presiding judge thereof, to be specified in the undertaking, and all costs and damages which may be awarded to the respondent on such appeal.

§ 12. DIRECTING THE ABATEMENT, OR RESTRAINING THE CONTINUANCE, OF A NUISANCE.] If the judgment appealed from direct the abatement, or restrain of the continuance of a nuisance, either public or private, the execution of the judgment shall not be stayed by the appeal unless an undertaking be entered on the part of the appellant, by at least two sureties, in such sum as the court, or presiding judge thereof, shall direct, to the effect that the appellant will pay all damages which the opposite party may sustain by the continuance of such nuisance.

§ 13. OTHER JUDGMENTS.] If the judgment appealed from direct the doing of any particular act or thing, and no express provision is made by the statute in regard to the undertaking to be given on appeal therefrom, the execution thereof shall not be stayed by the appeal therefrom unless an undertaking be entered on the part of the appellant, in such sum as the court, or presiding judge thereof, shall direct, and by at least two sureties, to the effect that the appellant will pay all damages which the opposite party may have sustained by not doing the particular act or thing directed to be done by the judgment appealed from, and to such further effect as such court or judge shall in discretion direct.

§ 14. FROM ORDERS.] When the appeal is from an order the execution or performance thereof shall not be delayed, except upon compliance, as the court or presiding judge thereof shall

direct, and when so required, an undertaking shall be executed on the part of the appellant, by at least two sureties in such sums and to such effect as the court or presiding judge thereof shall direct; such effect shall be directed in accordance with the nature of the order appealed from, corresponding to the foregoing provisions in respect to appeals from judgments, where applicable, and such provision shall be made in all cases as shall properly protect the respondent, and no appeal from an intermediate order before judgment shall stay proceedings, unless the court or presiding judge thereof shall, in his discretion, so specially order.

§ 15. **UNDERTAKING OF APPELLANT.**] When a party shall give immediate notice of appeal from an order vacating or modifying a writ of attachment, or from an order denying, dissolving, or modifying an injunction, he may within three days thereafter serve an undertaking executed on his part by at least two sureties in such sum as the court or presiding judge thereof shall direct, to the effect that if the order appealed from or any part thereof be affirmed the appellant will pay all costs and damages which may be awarded against him on appeal, and all which the adverse party may sustain by reason of the continuance of the attachment, or the granting or continuance of the injunction, as the case may be. Upon the giving of such undertaking such court or judge shall order the attachment to be continued, and in his discretion, may order the injunction asked to be allowed, or that before granted to be continued until the decision of the appeal, unless the respondent shall, at any time pending the appeal, give an undertaking, with sufficient surety in a sum to be fixed by the court or presiding judge, to abide and perform any final judgment that shall be rendered in favor of the appellant in the action, but may at any time subsequently vacate such order if the appeal be not diligently prosecuted.

§ 16. **UNDERTAKING ON APPEAL NOT NECESSARY IN CERTAIN CASES.**] When the Territory or any Territorial officer, or Territorial board, in a purely official capacity, or any municipal corporation within the Territory, shall take an appeal, service of the notice of appeal shall perfect the appeal and stay the execution or performance of the judgment or order appealed from, and no undertaking need be given. But the Supreme Court may on motion require surety to be given, in such form and manner as it shall in its discretion prescribe, as a condition of the further prosecution of the appeal.

§ 17. **WHEN SURETY BECOMES INSOLVENT.**] The Supreme Court, upon satisfactory proof that any of the sureties to an undertaking given under this act has become insolvent, or that his circumstances have become so precarious that there is reason to apprehend that the undertaking is insufficient security, may in its discretion require the appellant to file and serve a new undertaking, with such sureties and in such time as shall be prescribed, and that in default thereof the appeal shall be dismissed or the

stay of proceedings vacated, and the execution or performance of the judgment or order be allowed to be enforced without further delay.

§ 18. THE UNDERTAKINGS MAY BE IN ONE INSTRUMENT—REFUSAL OF JUDGE TO STAY.] The undertakings required by this act may be in one instrument or several, at the option of the appellant; the original must be filed with the notice of the appeal, and a copy showing the residence of the sureties must be served with the notice of appeal. When the sum or effect of any undertaking is required under the foregoing provisions to be fixed by the court or judge, at least twenty-four hours' notice of the application therefor shall be given the adverse party. When the court, or the judge thereof, from which the appeal is taken, or desired to be taken, shall neglect or refuse to make any order or direction not wholly discretionary, necessary to enable the appellant to stay proceedings upon an appeal, the Supreme Court, or one of the Justices thereof, shall make such order or direction.

§ 19. SURETIES MUST JUSTIFY.] An undertaking upon an appeal shall be of no effect unless it be accompanied by the affidavit of the sureties, in which each surety shall state that he is worth a certain sum mentioned in such affidavit, over and above all his debts and liabilities, in property within this Territory not by law exempt from execution, and which sum so sworn to by such sureties shall, in the aggregate, be double the amount specified in said undertaking. The respondent may, however, except to the sufficiency of the sureties within ten days after such notice of the appeal, and unless they or other sureties justify in the same manner as upon bail on arrest within ten days thereafter, the appeal shall be regarded as if no undertaking had been given. The justification shall be upon a notice of not less than five days.

§ 20. EFFECT OF PERFECTED APPEAL—COURT TO ORDER SALE OF PERISHABLE PROPERTY.] Whenever an appeal shall have been perfected and the proper undertaking given, or other act done prescribed by this act to stay the execution or performance of the judgment or order appealed from, all further proceedings thereon shall be thereby stayed accordingly, except that the court below may proceed upon any other matter included in the action, not affected by the judgment or order appealed from, and except that the court or presiding judge thereof may order perishable property, held under the judgment or order appealed from, to be sold, and the proceeds paid into the court to abide the event.

§ 21. REFERENCE TO ASCERTAIN DAMAGES—WHEN—BREACH OF UNDERTAKING.] When the amount of damages to be paid by the appellant on affirmance of the judgment or order appealed from, pursuant to any undertaking is not fixed by the judgment or decision of the Supreme Court on the appeal, the district court may, after the remitter of the record from the Supreme Court is filed, order a reference to ascertain such damages, the expense of which shall be included and recoverable with such damages. In all cases

a neglect for the space of thirty days after the affirmance on appeal of a judgment directing the payment of money, to pay the amount directed to be paid on such affirmance, shall be deemed a breach of the undertaking on such appeal. A neglect for a space of thirty days after the confirmation of the report of a referee, to whom a reference has been ordered for the purpose of ascertaining the damages to be paid, on the affirmance of any other judgment or order appealed from, to pay the amount of damages so ascertained and the costs of such reference, shall be deemed a breach of the undertaking on such appeal. The dismissal of an appeal or writ of error by the appellant or plaintiff in error, or by the court for want of prosecution, unless the court shall, at the time, otherwise expressly order, shall render the sureties upon any undertaking or bond, given under this act, liable in the same manner and to the same extent as if the judgment or order appealed from, or the judgment brought up on error had been affirmed.

§ 22. PROCEEDINGS ON APPEAL MAY BE AMENDED TO PERFECT APPEAL] When a party shall in good faith give notice of appeal, and shall omit, through mistake or accident, to do any other act necessary to perfect the appeal or make it effectual, or to stay proceedings, the court from which the appeal is taken, or the presiding judge thereof, or the Supreme Court, or any one of the Justices thereof, may permit an amendment, or the proper act to be done on such terms as may be just.

§ 23. WHAT ORDERS REVIEWABLE.] The following orders, when made by the court, may be carried to the Supreme Court:

1. An order affecting a substantial right, made in any action when such order in effect determines the action and prevents a judgment from which an appeal might be taken.

2. A final order affecting a substantial right, made in special proceedings, or upon a summary application in an action for judgment.

3. When an order grants, refuses, continues or modifies a provisional remedy, or grants, refuses, modifies or dissolves an injunction; when it sets aside or dismisses a writ of attachment for irregularity; when it grants or refuses a new trial; or when it sustains or overrules a demurrer.

4. When it involves the merits of an action or some part thereof; when it orders judgment on application therefor, on account of the frivolousness of a demurrer, answer or reply, or strikes off such demurrer, answer or reply on account of the frivolousness thereof.

5. From orders made by the district court, vacating or refusing to set aside orders made at chambers, where, by the provisions of this act an appeal might have been taken, in case the order so made at chambers had been granted or denied by the district court in the first instance. For the purposes of an appeal from an order, either party may require the order to be entered by the clerk of record, and it shall be entered accordingly.

§ 24. DETERMINATION ON APPEAL.] Upon an appeal from a judgment, as well as upon a writ of error, the Supreme Court may review any intermediate order or determination of the court below which involves the merits and necessarily affects the judgment, appearing upon the record transmitted or returned from the district court, whether the same were excepted to or not; nor shall it be necessary in any case to take any exception or settle any bill of exceptions to enable the Supreme Court to review any alleged error which would, without a bill of exceptions, appear upon the face of the record. Any questions of fact or of law, decided upon trials by the court or by referee, may be reviewed when exceptions to the findings of fact have been duly taken by either party and returned.

§ 25. COURT MAY GRANT A REHEARING—WHAT CLERK MUST TRANSMIT.] Upon an appeal from a judgment or order, or upon a writ of error, the Supreme Court may reverse, affirm or modify the judgment or order, and as to any or all of the parties; and may, if necessary, or proper, order a new trial; and if the appeal is from a part of the judgment or order, may reverse, affirm or modify as to the part appealed from. In all cases the Supreme Court shall remit its judgment or decision to the court from which the appeal or writ of error was taken, to be enforced accordingly; and if from a judgment, final judgment shall thereupon be entered in the court below in accordance therewith, except where otherwise ordered, the clerk of the Supreme Court shall remit to such court the papers transmitted to the Supreme Court on the appeal or writ of error, together with the judgment or decision of the Supreme Court thereon, within sixty days after the same shall have been made, unless the Supreme Court, on application of either of the parties, shall direct them to be retained for the purpose of enabling such parties to move for a rehearing. In case such motion for a rehearing is denied the papers shall be remitted within twenty days after such denial. The clerk of the Supreme Court shall in all cases, except when the order or judgment is affirmed, also transmit with the papers so returned by him a certified copy of the opinion of the Supreme Court, and his fees for such copy shall be taxed and allowed with his other fees in the case.

§ 26. WHEN NEW TRIAL ORDERED—TIME LIMITED.] In every case in error, or on appeal, in which the Supreme Court shall order a new trial, or further proceedings in the court below, the record shall be transmitted to such court, and proceedings had therein within one year from the date of such order in the Supreme Court, or in default thereof, the action shall be dismissed, unless upon good cause shown, the court shall otherwise order.

§ 27. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 21.

EXCEPTIONS.

AN ACT To Amend Article 8 and Article 9 of Chapter 12 of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. DEFINING EXCEPTIONS.] An exception is an objection upon a matter of law to a decision made, either before or after judgment by a court, or judge, in an action or proceeding. The exception must be taken at the time the decision is made, except as provided in section two of this act.

§ 2. WHAT ARE DEEMED EXCEPTED TO.] The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision finally determining the rights of the parties, or some of them; an order granting or refusing a new trial; an order sustaining or overruling a demurrer, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, refusing a continuance; an order made upon *ex parte* application and an order or decision made in the absence of a party are deemed to have been excepted to.

§ 3. HOW STATED.] Section 279 of the Code of Civil Procedure is amended so as to read as follows: "No particular form of exception is required, but when the exception is to the verdict or decision, upon the ground of the insufficiency of the evidence to justify it, the objection must specify the particulars in which such evidence is alleged to be insufficient; but the specification of such particulars as provided in section 288 shall be sufficient, the objection must be stated, with so much of the evidence or other matter as is necessary to explain it, and no more. Only the substance of the reporter's notes of the evidence shall be stated. Documents on file in the action or proceeding may be copied, or the substance thereof stated, or a reference thereto sufficient to identify them may be made."

§ 4. TIME TO SETTLE BILL OF EXCEPTIONS.] Section 281 of the Code of Civil Procedure is amended so as to read as follows: "When a party desires to have exceptions taken at a trial settled in a bill of exceptions, he may, within thirty days after the entry of judgment, if the action were tried with a jury, or after receiving notice of the entry of judgment, if the action were tried without a jury, or such further time as the court in which the action is pending, or a judge thereof, may allow, prepare the draft of a bill

and serve the same, or a copy thereof, upon the adverse party. Such draft must contain all the exceptions taken, upon which the party relies. Within twenty days after such service the adverse party may propose amendments thereto and serve the same, or a copy thereof, upon the other party. The proposed bill and amendments must, within ten days thereafter, be presented by the party seeking the settlement of the bill to the judge who tried or heard the case, upon five days notice to the adverse party, or be delivered to the clerk of the court for the judge. When received by the clerk, he must immediately deliver them to the judge, if he be in the county; if he be absent from the county and either party desire the papers to be forwarded to the judge, the clerk must, upon notice in writing of such party, immediately forward them by mail or other safe channel; if not thus forwarded, the clerk must deliver them to the judge immediately after his return to the county. When received from the clerk, the judge must designate the time at which he will settle the bill, and the clerk must immediately notify the parties of such designation. At the time designated the judge must settle the bill, if no amendments are served, or if served are allowed, the proposed bill may be presented with the amendments, if any, to the judge for settlement, without notice to the adverse party. It is the duty of the judge, in settling the bill, to strike out of it all redundant and useless matter, so that the exceptions may be presented as briefly as possible. When settled the bill must be signed by the judge, with his certificate to the effect that the same is allowed, and shall then be filed with the clerk."

§ 5. IN CASE OF A VACANCY.] Section 284 of the Code of Civil Procedure is amended so as to read as follows: "A judge may settle and sign a bill of exceptions after, as well as before he ceases to be such judge. If such judge, before the bill of exceptions is settled, dies, is removed from office, becomes disqualified, is absent from the Territory, or refuses to settle the bill of exceptions, or if no mode is provided by law for the settlement of the same, it shall be settled and certified in such manner as the Supreme Court may by its order or rules direct. Judges of the district court and the Supreme Court shall respectively possess the same power in settling and certifying statements as is by this section conferred upon them in settling and certifying bills of exceptions."

§ 6. NOTICE—WHAT TO CONTAIN—WHEN HEARD.] Section 288 of the Code of Civil Procedure is amended so as to read as follows: "The party intending to move for a new trial must, within twenty days after the verdict of the jury, if the action were tried by a jury, or after notice of the decision of the court, if the action were tried without a jury, serve upon the adverse party a notice of his intention, designating the statutory grounds upon which the motion will be made and whether the same will be made

upon affidavits or the minutes of the court, or a bill of exceptions, or a statement of the case.

1. If the motion is to be made upon affidavits, the moving party must, within twenty days after serving the notice, or such further time as the court in which the action is pending, or a judge thereof may allow, serve a copy of such affidavits upon the adverse party, who shall have ten days to serve counter-affidavits, a copy of which must be served upon the moving party. Motions for new trial on the ground of newly discovered evidence may be made at any time before the close of the term next succeeding that at which the trial was had.

2. If the motion is to be made upon a bill of exceptions and no bill has already been settled as hereinbefore provided, the moving party shall have the same time after service of the notice to prepare and obtain a settlement of a bill of exceptions as is provided after the entry of judgment, or after receiving notice of such entry by section two hundred and eighty-one, and the bill shall be prepared and settled in a similar manner. If a bill of exceptions has been already settled and filed, when the notice of motion is given, such bill shall be used on the motion. When the notice designates as the grounds of the motion errors in law occurring at the trial and excepted to by the moving party, such bill of exceptions shall specify the particular errors upon which the party will rely.

3. If the motion is to be made upon a statement of the case, the moving party must, within twenty days after service of the notice, or such further time as the court in which the action is pending, or the judge thereof, may allow, prepare a draft of the statement and serve the same, or a copy thereof on the adverse party. If such proposed statement be not agreed to by the adverse party, he must within twenty days thereafter prepare amendments thereto and serve the same, or a copy thereof, upon the moving party. If the amendments be adopted the statement shall be amended accordingly, and then presented to the judge who tried or heard the cause for settlement, or be delivered to the clerk of the court for the judge. If not adopted, the proposed statement and amendments shall within ten days thereafter be presented by the moving party to the judge, upon five days' notice to the adverse party, or delivered to the clerk of the court for the judge; and thereupon the same proceedings for the settlement of the statement shall be taken by the parties, and clerk, and judge, as are required for the settlement of bills of exception by section two hundred and eighty-one, if no amendments are served within the time designated, or, if served, are allowed, the proposed statement and amendments, if any, may be presented to the judge for settlement, without notice to the adverse party. When the notice of intention designates as the ground of the motion the insufficiency of the evidence to justify the verdict or other decision, the statement shall specify the

particulars in which such evidence is alleged to be insufficient. When the notice designates as the ground of the motion errors in law occurring at the trial and excepted to by the moving party, the statement shall specify the particular errors upon which the party will rely. If no such specifications be made, the statement shall be disregarded on the hearing of the motion. It is the duty of the judge, in settling the statement, to strike out of it all redundant and useless matter, and to make the statement truly represent the case, notwithstanding the assent of the parties to such redundant or useless matter, or to any inaccurate statement. When settled, the statement shall be signed by the judge, with his certificate to the effect that the same is allowed, and shall then be filed with the clerk.

4. When the motion is to be made upon the minutes of the court, and the ground of the motion is the insufficiency of the evidence to justify the verdict or other decision, the notice of intention must specify the particulars in which the evidence is alleged to be insufficient; and, if the ground of the motion be errors in law occurring at the trial, and excepted to by the moving party, the notice of intention must specify the particular errors upon which the party will rely. If the notice do not contain the specifications here indicated, when the motion is made on the minutes of the court, the motion must be denied."

§ 7. HEARING IN OPEN COURT OR IN CHAMBERS.] Section 190 of the Code of Civil Procedure is amended so as to read as follows: "The application for a new trial shall be heard at the earliest practicable period after service of notice of intention, if the motion is to be heard upon the minutes of the court, and in other cases, after the affidavits are served or the bill of exceptions or statement, as the case may be, is filed and may be brought to a hearing in open court or before the judge at chambers, in any county in the district in which the action was tried by either party, upon notice of eight days to the adverse party, specifying the time and place of hearing. On such hearing reference may be had in all cases to the pleadings and orders of the court on file, and when the motion is made on the minutes, reference may also be had to any depositions, documentary evidence and phonographic report of the testimony on file."

§ 8. JUDGE MAY EXTEND TIME.] The court or judge may, upon good cause shown, in furtherance of justice, extend the time within which any of the acts mentioned in sections two hundred and eighty-one and two hundred and eighty-eight may be done, or may, after the time limited therefor has expired, fix another time within which any of such acts may be done.

§ 9. WHAT BILL OF EXCEPTIONS OR STATEMENT ON APPEAL MAY CONTAIN.] A bill of exceptions or statement of the case used upon the hearing of a motion for a new trial, or a bill of exceptions prepared as provided in section 281, or a statement of the case, prepared after judgment in the manner provided in section

288, and within the same time after judgment as is allowed for the preparation of a bill of exceptions, may be used on appeal from the final judgment; such statement shall only contain the grounds argued before the court for a new trial, and so much of the evidence or other matter as may be necessary to explain them, and it shall be the duty of the judge to exclude all other evidence or matter from the statement.

§ 10. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. This act shall take effect and be in force from and after the first day of October, 1887.

Approved, March 11, 1887.

CHAPTER 22.

NOTICE OF PENDENCY OF ACTION.

AN ACT To Amend Section One of Chapter 117 of the Laws Passed at the Sixteenth Session of the Legislative Assembly, Approved March 13, 1885.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. EFFECT OF LIS PENDENS.] That section one of chapter 117 of the laws passed at the Sixteenth Session of the Legislative Assembly, approved March 13, 1885, be and the same is hereby amended by inserting after the word "thereby," in the fifteenth line of said section, the following: "But if the action be for the foreclosure of a mortgage, or the enforcement of a mechanic's or miner's lien, no such notice need be filed."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 7, 1887.

CHAPTER 23.

PLACE OF TRIAL OF CIVIL ACTIONS.

AN ACT To Amend Section 92 of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHERE SUBJECT MATTER IS.] That section 92 of the Code of Civil Procedure be amended by adding thereto the following: All actions brought on a policy of insurance to recover for loss or damage to the property insured, shall be tried in the county or judicial subdivision where such property is situate at the time of its loss or damage.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 24.

PRESCRIBING TIME FOR FILING ATTACHMENT PAPERS.

AN ACT To Amend Section 208 of the Code of Civil Procedure Relating to the Filing of Papers in Proceedings by Attachment.

Be it Enacted by the Legislative Assembly of the Territory of Dakota.

§ 1. WHEN PAPERS SHALL BE FILED BY SHERIFF.] That section two hundred and three of chapter eleven of the Code of Civil Procedure be and the same is hereby amended by adding thereto the following words: "And such officer shall within twenty days after making such seizure, file all of said papers, including said inventory and return, with the clerk of the district court who issued the warrant."

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. That this act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, DAK., March 7, 1887.

The foregoing act having been presented to the Governor of the Territory, and not having been returned by him to the Council of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 25.

JUDGMENTS NOT TO BE ENTERED UNTIL AFTER FILING OF
COURT'S DECISION.

AN ACT to Amend Sections 266 and 268, of Chapter 12, of the Code of Civil Procedure, Relating to Trials and Judgments in Civil Actions.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHEN JUDGMENT SHALL BE ENTERED.] That section 266 of chapter 12 of the Code of Civil Procedure be and the same is hereby amended by adding thereto the following words: "And no judgment shall be rendered or entered until after the filing of such decision."

§ 2. That section 268 of chapter 12 of the Code of Civil Procedure be and the same is hereby amended by striking out the third subdivision thereof.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 7, 1887.

CHAPTER 26.

BOND NOT REQUIRED IN CERTAIN CASES.

AN ACT To Amend Chapter 7 of the Session Laws of 1885, Entitled Appeals in Civil Actions.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BOND NOT REQUIRED IN CERTAIN CASES.] That chapter seven of the Session Laws of 1885 be and the same is hereby amended to read as follows: That section four hundred and fourteen (414) of chapter sixteen (16) of the Code of Civil Procedure of Dakota Territory be and the same is amended by adding thereto after the word "respondent" the following words: *Provided*, That no bond shall in any action or proceeding be required of the Territory of Dakota, or any county, incorporated town or city thereof, on any appeal to any court of the Territory of Dakota, when the Territory, or any county, incorporated town or city shall be the party directly interested therein.

Approved, March 11, 1887.

CHAPTER 27.

DAMAGES FOR INJURIES TO PERSONS AND PROPERTY.

AN ACT to Amend Section 677 of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **DAMAGES.**] That section 677 of the Code of Civil Procedure be and the same is hereby amended by striking out the word "p' nitive," wherever it occurs in said section.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1887.

CHAPTER 28.

FEES AND DISBURSEMENTS—FORECLOSURE BY ADVERTISEMENT.

AN ACT to Amend Section Six Hundred and Fifteen (615) of Chapter 28 of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **PARTY FORECLOSING ENTITLED TO COSTS.**] That section six hundred and fifteen (615) of chapter 28 of the Code of Civil Procedure be and hereby is amended to read as follows:

§ 615. The party foreclosing a mortgage by advertisement shall be entitled to his costs and disbursements out of the proceeds of the sale and shall also be entitled in addition, to any attorney fee agreed upon in the mortgage, upon the making by the attorney, or if more than one, by one of the attorneys employed to foreclose, and filing with the register of deeds at or prior to the time of sale, of an affidavit to the effect that such attorney or attorneys have been in good faith employed to foreclose; that the full amount of such fee innures to his or their benefit; that no agreement or understanding for any division thereof has been made with any other person; that no part thereof is or has been agreed to be paid to the party foreclosing and that such attorney or attorneys are actual and *bona fide* residents of the Territory of Dakota.

§ 2. That all acts and parts of acts inconsistent herewith are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 29.

FORECLOSURE OF MORTGAGES.

AN ACT Entitled an Act Amending Section 610 of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AMENDED.] That section six hundred and ten of the Code of Civil Procedure be amended by striking out from said section the word "mortgagee" and inserting in lieu thereof the word "mortgagor."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, January 22, 1887.

COMMISSIONER OF IMMIGRATION.

CHAPTER 30.

APPROPRIATION FOR PRINTING, PUBLISHING AND OTHER NECESSARY EXPENSES.

AN ACT To Provide for the Printing, Publishing and Other Current and Necessary Expenses of the Office of the Commissioner of Immigration.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION FOR PRINTING, ETC.] There is hereby appropriated for the various purposes embraced in section eleven, chapter sixty-six, laws of 1885, the same relating to the general printing, publication and expense fund of the office of the Commissioner of Immigration, the sum of seven thousand dollars for the year ending December 31, 1887, and the sum of seven thousand dollars for the year ending December 31, 1888, to be paid out

of any funds belonging to the Territory not otherwise appropriated, and there is hereby appropriated the sum of eight hundred dollars, or so much thereof as may be necessary for the payment of expenditures for printing, publishing, postage and other necessities made by the Commissioner of Immigration prior to December 31, 1886, on account of and in pursuance of the duties of his office, to be paid upon his sworn and itemized account, when approved by the Governor, out of any funds belonging to the Territory not otherwise appropriated.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CONTRACTS.

CHAPTER 31.

RELATING TO MANNER OF LETTING CONTRACTS BY COUNTY BOARDS.

AN ACT to Amend Section Forty-five (45), of Chapter Twenty-one (21) of the Political Code, Relating to the Manner of Letting Contracts by County Boards.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CONTRACTS—MANNER OF LETTING.] That section forty-five (45) of chapter twenty-one (21) of the Political Code be amended by adding thereto the following: The provisions of this section shall apply to all contracts for fuel, stationery and all other articles for the use of said county, or labor to be performed therefor, when the amount to be paid for the same exceeds the sum of one hundred dollars; also for the publication of the proceedings of the board; *Provided*, That in all such cases advertisement for bids therefor need not be for more than three (3) weeks, in some newspaper published in said county.

§ 2. That all acts and parts of act in conflict herewith be and the same are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CONTAGIOUS DISEASES.

CHAPTER 32.

DOMESTIC ANIMALS—PROVIDING FOR APPOINTMENT OF TERRITORIAL VETERINARY SURGEON.

AN ACT to Suppress and Prevent the Spread of Contagious or Infectious Diseases Among Domestic Animals.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. VETERINARY SURGEON—HOW APPOINTED.] That the Governor of the Territory is hereby authorized to nominate, and by and with the advice and consent of the Council, appoint a competent veterinary surgeon who shall be known as the "Veterinary Surgeon," and on entering on his duties shall take an oath to well and truly perform his duties, as provided by law.

§ 2. DUTIES OF VETERINARY SURGEON.] The duties of said Territorial Veterinary Surgeon shall be as follows:

1. To investigate any and all cases of contagious or infectious diseases among cattle, horses, mules and asses in this Territory, of which he may have a knowledge or which may be brought to his notice by any resident in the locality where such disease exists; and it shall be his duty, in the absence of specific information, to make visits of inspection to any locality where he may have reason to suspect that there is contagious or infectious diseases.

2. To inspect, under the regulations of this act, all cattle, horses, mules and asses which may be brought into this Territory, in any manner whatever, from or through such state, territory or foreign country as the Governor shall declare by proclamation in quarantine for purposes of inspection for contagious or infectious diseases. And after the making of such proclamation, it shall be the duty of the owner or person in charge of any domestic animals or Texas cattle arriving in this Territory from or through any state, territory or foreign country against which quarantine has been declared, to notify the Veterinary Surgeon without delay, and not to allow such animals, or any of them, to leave the place of arrival until they shall have been examined by the said surgeon and his certificate obtained that all are free from disease; and no animal pronounced

unsound from disease by the Veterinary Surgeon shall be turned loose, or allowed to run at large, or removed, or permitted to escape, but shall be held subject to the order of the Veterinary Surgeon. Any person failing to comply with this provision shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty (50), nor more than five hundred (500) dollars for each offense, and shall be liable for any damage and loss that may be sustained by any person or persons by reason of the failure of such owner or agent to comply with the provisions of this section; *Provided*, That the owner of horses, mules or asses, ridden under the saddle or driven in harness into this Territory, or the owner of oxen driven into this Territory under the yoke, and any person coming into this Territory with his team or teams, shall not be required to notify the Territorial Veterinary Surgeon, or await the inspection of such work oxen, team or teams, but he shall be liable for all loss or damage to any person or persons from or by reason of any contagious or infectious disease brought into this Territory by his animals, and no cattle, horses, mules or asses shall be held in quarantine in this Territory for a longer period than ninety (90) days, unless contagious or infectious disease shall be found to exist among them.

§ 3. VETERINARY SURGEON TO ORDER QUARANTINE—NOTIFY GOVERNOR—WHEN—EXPENSES HOW PAID.] In all cases of contagious or infectious disease among domestic animals or Texas cattle in this Territory, the Veterinary Surgeon shall have authority to order the quarantine of the infected premises, and in case such disease shall become epidemic in any locality in this Territory, the Territorial Veterinary Surgeon shall immediately notify the Governor of the Territory, who shall thereupon issue his proclamation forbidding any animal of the kind among which said epidemic exists to be transferred from said locality, without a certificate from the Veterinary Surgeon showing such animal to be healthy. The expenses of holding, feeding and taking care of all animals quarantined under the provisions of this act shall be paid by the owner, agent or person in charge of said stock.

§ 4. VETERINARY TO ORDER SLAUGHTER OF ANIMALS—WHEN.] In case of any epidemic diseases where premises have been previously quarantined by the Veterinary Surgeon as before provided, he is further authorized and empowered, when in his judgment necessary, to order the slaughter of any and all diseased animals upon said premises and of all animals that have been exposed to contagion or infection, under the following restrictions: Said order shall be a written one and shall be made in duplicate, and there shall be a distinct order and duplicate for each owner of the animals condemned, the original of each order to be filed by the Veterinary Surgeon with the Governor of the Territory, and the duplicate given to said owner. And, further, before slaughtering any animal or animals that have been exposed only and do not show disease, the Veterinary Surgeon shall call in con-

sultation with him two (2) respectable practicing veterinarians or physicians, residents of the Territory, or if this is impossible then two reputable and well known freeholders, residents of the Territory, and shall have written indorsements upon his order of at least one of said consulting physicians or freeholders, stating that said action is necessary, before such animal or animals shall be slaughtered.

§ 5. **SLAUGHTERED ANIMALS—HOW APPRAISED.**] Whenever, as herein provided, the Veterinary Surgeon shall order the slaughter of one or more animals, he shall, at the time of making such order, notify in writing the nearest available justice of the peace, who shall thereupon summon three disinterested citizens, who shall be freeholders of the neighborhood, to act as appraisers of the value of such animals. Said appraisers before entering upon the discharge of their duties shall be sworn to make a true and faithful appraisement, without prejudice or favor. They shall after making their appraisement return certified copies of their valuation, a separate one being made for each owner, together with an accurate description of each animal slaughtered (giving all brands, ear marks, wattles, age, sex and class, as to whether American, half-breed or Texas), to the justice of the peace by whom they were summoned, who shall, after entering the same upon his record and making an indorsement upon each, showing it to have been properly recorded, return it, together with the duplicate order of the Veterinary Surgeon, to the person or persons owning the animals slaughtered; and it shall be the duty of the Veterinary Surgeon to superintend the slaughter of such animals as may be condemned and also the destruction of the carcass, which latter shall be by burning to ashes or burying the same, which burial shall not be less than six feet under the ground, and shall include every part of the animal, including excrement, as far as possible, and the hide shall be so cut and scarified as to be useless. He shall cause the said slaughter, burning or burial to be done as cheaply as practicable.

§ 6. **GOVERNOR GIVES NOTICE TO COUNTY COMMISSIONERS—WHEN—ANNUAL REPORTS.**] The Veterinary Surgeon shall make a report at the end of every year, to the Governor, of all matters connected with his work, and the Governor shall transmit to the several boards of county commissioners such parts of said report as may be of general interest to the breeders of live stock. The Governor shall also give information in writing, as soon as he obtains it, to the various boards of county commissioners, of each cause of suspicion or fresh eruption of disease in each locality, its cause, and the measures adopted to check it.

§ 7. **GOVERNOR ISSUES PROCLAMATION—WHEN—PENALTY FOR VIOLATION.**] Whenever the Governor of the Territory shall have good reason to believe that any disease covered by this act has become epidemic in certain localities in another state or territory or foreign country, or that conditions exist which render domes-

tic animals and Texas cattle liable to convey disease, he shall there-upon, by proclamation, schedule such localities and prohibit the importation from them of any live stock of the kind diseased into this Territory, except under such restrictions as he, after consultation with the Territorial Veterinary Surgeon, may deem proper. Any corporation or any person or persons who, after the publication of such proclamation, shall knowingly receive in charge any such animal or animals from any one of said prohibited districts and transport or convey the same within the limits of this Territory, shall be deemed guilty of a misdemeanor, and upon conviction be fined not less than \$1,000, and not more than \$10,000 for each and every offence, and shall further become liable for any and all damages and loss that may be sustained by any person or persons by reason of the importation or transportation of such prohibited animals.

§ 8. DUTY OF PERSON HAVING KNOWLEDGE TO REPORT SAME—PENALTY.] It shall be the duty of any person or persons who shall have or suspect that there is upon his or their premises, or upon the public domain, any case of contagious or infectious disease among domestic animals or Texas cattle, to immediately report the same to the Territorial Veterinary Surgeon, and a failure so to do, or any attempt to conceal the existence of such diseases, or to wilfully or maliciously obstruct or resist the said Territorial Veterinary Surgeon in the discharge of his duty as hereinbefore set forth, shall be deemed a misdemeanor, and any person or persons who shall be convicted of any one of the above acts or omissions shall be fined not less than \$50 nor more than \$500, for each and every such offense and shall forfeit all claims to indemnity for loss from the Territory; and upon conviction a second time shall, in addition to the above named fine, be imprisoned in the county jail for a term not less than thirty days nor more than six months.

§ 9. REGULATIONS.] The following regulations shall be observed in all cases of disease covered by this act:

1. It shall be unlawful to sell, give away, or in any manner part with any animal affected with or suspected of being affected with contagious or infectious disease; and in case of any animal that may be known to have been affected with or exposed to any such disease within one year prior to such disposal, due notice of the fact shall be given in writing to the party receiving the animal.

2. It shall be unlawful to kill for butcher purposes any such animal; to sell, give away, or use any part of it, or its milk, or to remove any part of the skin. A failure to observe these provisions shall be deemed a misdemeanor; and on conviction shall be punished by a fine not less than one hundred dollars (\$100) nor exceeding five hundred dollars (\$500). It shall be the duty of the owner or person having in charge any animal affected with or suspected of being affected with any contagious or infectious dis-

ease, to immediately confine the same in a safe place, isolated from other animals, and with all necessary restrictions to prevent dissemination of the disease until the arrival of the Veterinary Surgeon. The above regulations shall apply as well to animals in transit through the Territory as to those resident therein; and the Veterinary Surgeon, or his duly authorized agent, shall have full authority to examine, whether in car, or yards, or pastures or stables, or upon the public domain, all animals passing through the Territory, or any part of it, and on detection or suspicion of disease, take possession of and treat and dispose of animals in the said manner as is prescribed for animals resident in the Territory.

§ 10. CLAIMS AGAINST THE TERRITORY—HOW PAID.] All claims against the Territory arising from the slaughter of animals under the provisions of this act shall, together with the order of the Veterinary Surgeon and the valuation of the appraisers in each case, be submitted to the Governor, who shall examine them without unnecessary delay, and for each one that he finds to be equitable and entitled to indemnity under this act, shall issue his warrant on the stock indemnity fund in the hands of the Territorial Treasurer, for the sum named in the appraiser's report, to the person so entitled thereto. In auditing any claim under this act it shall be the duty of the Governor to satisfy himself that it does not come under any class for which indemnity is refused by this act, and he shall require the affidavit of the claimant to this fact, or if the claimant be not cognizant thereof, then to some reputable person who is cognizant thereof, and also the affidavit of the Veterinary Surgeon, whose duty it shall be to inform himself fully of the facts, that in his opinion the claim is legal and just, and the Governor may, at his discretion, require further proof.

§ 11. CARCASS—HOW DISPOSED OF—DUTY OF PERSON HAVING AFFECTIONED BOVINE.] It shall be the duty of any person or persons owning or having in their possession any bovine affected with any of the following diseases, viz: Rinderpest, foot and mouth disease, pleuro pneumonia, anthrax or Texas fever, or any equine affected with glanders, to immediately notify the Veterinary Surgeon, who shall destroy or cause to be destroyed the same by burning to ashes, or burying the same, which burial shall not be less than six feet under ground, and shall include every part of the animal, and the hide shall be so cut and scarified as to be useless. Any person or persons who shall fail, or neglect to comply with this provision shall be guilty of a misdemeanor, and shall be punished by a fine not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000), or imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, and the owner or owners of such diseased animal or animals shall further be liable for any or all damages and loss that may be sustained by any person by reason of failing to comply with the foregoing provision.

§ 12. RIGHT TO INDEMNITY LIMITED.] The right to indemnity

under this act is limited to animals destroyed by reason of the suspected existence of some epizootic disease, generally fatal and incurable, such as rinderpest, hoof and mouth disease, pleuro pneumonia, anthrax or Texas fever among bovines and glanders among horses.

§ 13. **VALUE OF ANIMALS—HOW DETERMINED.**] The indemnity granted shall be the ordinary value of the animal, as determined by the appraisers, without reference to its diminished value caused by the suspected existence of disease, or by having been exposed to any of the contagious diseases last above enumerated. It shall be paid to the owner upon his application and the presentation of the proofs prescribed herein; and it shall be the duty of said owner to make such application within six months after the slaughter of the animal for which payment is claimed, finding which, such claim shall be barred by limitation. Such payment shall be made by the Territorial Treasurer, as herein provided, and from the fund provided by this act; *Provided, however,* That no bovine shall be appraised for a higher value than fifty dollars (\$50.00), except registered pedigree animals, which shall not be valued to exceed one hundred and fifty dollars (\$150.00). No equines shall be appraised for a higher value than one hundred dollars (\$100.00), except registered pedigree animals, which shall not be valued to exceed three hundred dollars (\$300.00.)

§ 14. **INDEMNITY NOT ALLOWED—WHEN.**) The right to indemnity shall not exist, and payment of such shall not be made in the following cases:

1. For animals belonging to the United States.
2. For animals that are brought into the Territory contrary to the provisions of this act.
3. For animals that are found to be diseased or that are destroyed because they have been exposed to disease before or at the time of their arrival in the Territory, or for animals that have been shipped into the Territory from any infectious or quarantined locality.
4. When an animal was previously affected by any other disease which from its nature and development was incurable and necessarily fatal.
5. When the owner or person in charge shall have knowingly or negligently omitted to comply with the provisions of sections eight and nine of the act.
6. When the owner or claimant at the time of coming into possession of the animal knew it to be diseased, or received the notice specified in the first clause of section nine of this act.
7. When the animal or animals have been brought into the Territory within ninety days immediately preceding the outbreak of disease among or upon them.

§ 15. **SALARIES AND FEES.**] The Veterinary Surgeon shall receive for his services the sum of \$2,500 per annum, together with his necessary traveling expenses, actually paid out when in per-

formance of his duty. These payments shall be made from any funds in the Territorial Treasury not otherwise appropriated, upon itemized vouchers, signed and sworn to by him and submitted to the Territorial Auditor, who shall draw warrants upon the Territorial Treasurer for the amounts, if found correct, separate vouchers being made for salary and expenses. No person shall be competent under this act to receive the appointment of Veterinary Surgeon who is not at the date of his appointment a graduate in good standing of a recognized college of veterinary surgeons, and of not less than five years actual practice. He shall hold his office for two years. He may be removed for cause by the Governor, who shall also have power to fill the vacancy as hereinbefore provided. The appraisers herein provided for shall each receive three dollars for each day or part of a day they may be actually employed as such, which shall be paid from the Territorial Treasury, out of the stock indemnity fund hereinafter provided, upon vouchers which bear the certificate of the justice who summoned them. The justice of the peace shall receive for his services the fees provided by law for similar services, to be paid out of the county general fund. The veterinarians, physicians, or freeholders called in consultation by the Veterinary Surgeon shall each receive three dollars for each day or part of a day they may be actually so employed, and five cents per [mile] mileage for distance necessarily traveled, which sums shall be paid from the Territorial Treasury out of the stock indemnity fund hereinafter provided for, upon vouchers certified to by the Veterinary Surgeon, and other incidental expenses connected with his work, and made his duty by this act, such as causing animals to be slaughtered and their carcases to be burned or buried, and disinfecting infected premises, shall be paid from the Territorial Treasury, out of the stock indemnity fund hereinafter provided for, upon vouchers certified to by him under oath. Before entering upon the discharge of his duties he shall give a bond to the Territory of Dakota with good and sufficient surety, in the sum of ten thousand dollars, conditioned for the proper discharge of the same. No constructive mileage shall be paid under this act, nor shall the Veterinary Surgeon receive any mileage.

§ 16. LIABILITY OF TERRITORY LIMITED.] The liability of the Territory for indemnity for animals destroyed, and for fees, costs and expenses incurred under the provisions of this act, in any year, is limited by and shall in no case exceed the amount especially appropriated for that purpose and for that period, by the terms of this act, nor shall the Veterinary Surgeon or any one else incur any liability on the part of the Territory, under the provisions of this act, in excess of the surplus in the stock indemnity fund hereinafter provided; nor shall any act be performed or property taken under the provisions of this act that will become a charge against the Territory of Dakota, further than to the extent provided by said stock indemnity fund.

§ 17. STOCK INDEMNITY FUND—HOW PROVIDED.] Hereafter it shall be the duty each year of the Territorial Board of Equalization, at the time of making the annual assessment, to levy a special tax not exceeding one mill on the dollar upon the assessed value of all cattle, horses and mules in the Territory, to be known as the stock indemnity fund. Said tax shall be levied and collected by the several counties and paid to the Territorial Treasurer in the manner provided by law for the levying, collection and payment of other Territorial taxes. Said fund shall constitute the stock indemnity fund specified by this act, to be used in paying for animals destroyed under the provisions thereof. It shall be used exclusively for that purpose, and shall be paid out by the Territorial Treasurer as hereinbefore provided for.

§ 18. VETERINARY SURGEON SELECTS PLACE OF QUARANTINE.] The Veterinary Surgeon shall select the place or places where stock shall be quarantined.

§ 19. FINES—HOW PLACED.] All fines collected under the provisions of this act shall be paid into the Territorial Treasury and placed at [to] the credit of the "stock indemnity fund."

§ 20. REGARDING DEPUTIES.] The Veterinary Surgeon shall have the power to appoint from time to time, by and with the consent and approval of the Governor, deputies, (not exceeding five in number, at any time he cannot personally attend to all the duties required by his office,) at a salary not to exceed \$5 per day for each day actually employed, to be paid out of said stock indemnity fund, and shall designate the county or counties for which each deputy is to act. All acts performed by such deputies shall have the same effect as if done by the Territorial Veterinary Surgeon.

§ 21. ATTORNEY GENERAL OR DISTRICT ATTORNEY PROSECUTES—FEES OF.] It is hereby made the duty of the Attorney General or district attorney of the respective counties, to prosecute any case complained of for prosecution, in any justice or district court within the jurisdiction of which any violation of this act may have been had, and on conviction of violating any of the provisions of this act, the court may award in addition to the penalties prescribed by law, and add to the judgment, such attorney's fees and costs of prosecution as the court may determine just in the premises.

§ 22. This [act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 33.

SHEEP.

AN ACT to Prevent the Spread of Contagious Diseases Among Sheep.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. SHEEP AFFECTED TO BE QUARANTINED.] That the owner, or the person in charge of any sheep which are now or shall hereafter be affected with the scab, or any infectious or contagious disease, shall keep the said sheep securely within some enclosure, or shall herd them at a distance of not less than six miles from all farms, corrals, sheds, or other established headquarters, where sheep are kept or are being herded; *Provided*, That any person owning sheep affected with the scab, or any infectious or contagious disease who, prior to the passage of this act, established headquarters, shall be allowed to range such sheep upon the public domain within six miles in any direction of such established headquarters; *Provided further*, That such sheep shall not be allowed to range within three miles of any other headquarters, unless the other headquarters be less than six miles distant, in which case such sheep shall not be herded nearer to the other headquarters than a distance equal to one-half of the distance between the two headquarters.

§ 2. SHEEP AFFECTED NOT TO BE DRIVEN ON HIGHWAY.] It shall be unlawful for any person or persons owning sheep affected with the scab or any infectious or contagious disease, to drive, or permit the same to be driven, upon any public highway, or within the distance of one mile of any such highway, or within six miles of any farm, corral, shed or other established headquarters where sheep are kept or being herded.

§ 3. OWNERS OF SHEEP MAY EXAMINE OTHER FLOCKS—WHEN.] Any person owning sheep, or any one in his employ, shall have the right to examine any band of sheep that shall be driven within six miles of his headquarters, and any person or persons in charge of such sheep shall stop them and allow them to be examined, and shall render the necessary assistance in catching and examining them. If the person so in charge of such sheep refuse to render the assistance as above required, he shall be punished as herein-after provided.

§ 4 PENALTY FOR SPREADING INFECTION—FELONY—WHEN.] Any person who shall knowingly carry or drive or cause to be carried or driven, one or more sheep affected with the scab, or any infectious or contagious disease, into a herd of sheep belonging to

another person, or shall knowingly carry or cause to be carried, the "parasite" which causes such scab or disease, and place it where another person is corralling or herding sheep, so that such sheep may become affected thereby, shall be adjudged guilty of a felony, and upon conviction thereof shall be confined in the Territorial Prison not less than five years nor more than than ten years, and be fined in any sum not less than \$1,000.

§ 5. PUNISHMENT FOR VIOLATION.] Any person who shall be convicted of the violation of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than \$100 nor more than \$600.

§ 6. LIABLE IN DAMAGES—WHEN.] Any person violating any of the provisions of this act shall be liable in damages to any person or persons injured thereby, directly or indirectly, to be recovered in a civil action in any court of competent jurisdiction.

§ 7. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CORPORATIONS.

CHAPTER 34.

BUILDING AND LOAN ASSOCIATIONS.

AN ACT To Amend Sections Two, Three, Four, Five, Eight, Nine and Nine-teen of Chapter Thirty-four of the Laws of 1885, Entitled "An Act to Provide for the Incorporation and Regulation of Building and Loan Associations."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CAPITAL STOCK.] Section two of said act be and the same is hereby amended to read as follows: "The capital stock of any corporation created by virtue of this act shall at no time consist of more than two thousand five hundred shares, of two hundred dollars each, or five thousand shares of one hundred dollars each, the installments on which stock are to be paid at such time and place as the by-laws shall appoint, no peri-

odical payment to be made exceeding two dollars on each share. Every share of stock shall be subject to a lien for the payment of unpaid installments and other charges incurred thereon, under the provisions of the charter and by-laws, and the by-laws may prescribe the form and manner of enforcing such lien. New shares of stock may be issued in lieu of the shares withdrawn or forfeited; the stock may be issued in one or more successive series, in such amount as the board of directors or stockholders may determine, and any stockholder wishing to withdraw from the said corporation shall have power to do so by giving thirty days notice of his or her intention to withdraw, when he or she shall be entitled to receive the amount paid in by him or her, and such proportion of the profits as the by-laws may determine, less all fines and other charges; *Provided*, That at no time shall more than one-half of the funds in the treasury of the corporation be applicable to the demands of withdrawing stockholders without the consent of the board of directors, and that no stockholder shall be entitled to withdraw whose stock is held in pledge for security. Upon the death of a stockholder, his or her legal representative shall be entitled to receive the full amount paid in by him or her and legal interest thereon, first deducting all charges that may be due on the stock. No fines shall be charged to a deceased member's account from or after his or her decease, unless the legal representatives of such decedent assume the future payments of the stock.

§ 2. BY-LAWS TO CONTAIN.] Section three be and the same is hereby amended to read as follows: By-laws to contain the number, titles, functions and compensation of the officers of any corporation created by virtue of this act, their terms of office, the times of their election, as well as the qualifications of electors, and the votes and manner of voting, and the periodical meetings of said corporation, and the manner and terms upon which loans shall be made and repaid shall be determined by the by-laws.

§ 3. LOANING FUNDS.] Section four be, and the same is hereby amended to read as follows: Loaning Funds—The said officers shall hold stated meetings at which the money in the treasury, if equal to the amount of one share of stock in such corporation shall be offered for loan in open meeting, and the stockholder who shall bid the highest premium for the preference or priority of loan shall be entitled to receive a loan of the full amount for each share of stock held by such stockholder; *Provided*, That good and ample security shall be given by the borrower to secure the repayment of the loan. In case the borrower shall neglect to offer security that is approved by the board of directors by such time as the by-laws may prescribe, he or she shall be charged with one month's interest at the rate charged by the association on loans, and a fine not to exceed one dollar per share, together with any expenses incurred, and the money shall be resold at the next stated meeting. In case of non-

payment of installments, or interest or premium by borrowing stockholder, for the space of six months, payment of principal and interest, without deducting the premium paid or interest thereon, may be enforced by proceeding on their securities according to law.

§ 4. PAYMENT OF LOANS.] Section five be and the same is hereby amended to read as follows:

§ 5. A borrower may repay a loan at any time by the payment to the corporation of the principal sum borrowed, together with interest, not to exceed twelve per cent. per annum, together with such per cent of premium per annum as may have been bid for the preferences or priority of such loan and any fines or charges that may be imposed upon such stockholder at the time of such repayment, or in case the amount of premium bid for the priority of such loan be deducted in advance, and the repayment thereof is made before the expiration of the eighth year after the organization of the corporation; there shall be refunded to such borrower one eighth of the premium paid for every year of the said eight years unexpired; *Provided*, that when the stock is issued in separate series, the time shall be computed from the date of the issuing of the shares of stock on which the loan was made; *Provided, further*, That when the series of stock has a less period than eight years to complete full payment thereof, there shall be refunded only pro rata for the unexpired term of the series; and, *Provided, further*, When the by-laws of the corporation prescribe a different manner, and terms upon which a loan may be repaid, then the repayment can only be made in accordance with the by-laws of such corporation.

§ 5. MAY PURCHASE AT SHERIFF'S SALE.] Section eight be and the same is hereby amended to read as follows:

§ 8. Any building or loan association incorporated by or under the provisions of this act, or any one heretofore or hereafter incorporated, accepting of the provisions of the same, is hereby authorized and empowered to purchase at any sheriff's or other judicial sale, or at any other sale, public or private, any real estate upon which such association may have or hold any mortgage, judgment, lien, or other incumbrance, or in which said association may have an interest, and the real estate so purchased, or any other that such association may hold, or be entitled to at the passage of this act to sell, convey, lease or mortgage at pleasure to any person or persons whatsoever, and all sales of real estate heretofore made by such association to any person or persons not members of the association so selling are hereby confirmed and made valid.

§ 6. VALIDATING SECURITIES.] Section nine be and the same is hereby amended to read as follows:

§ 9. All mortgages heretofore given to the building and loan associations organized under the laws of this Territory before the passage of this act or subsequent hereto, but such associations subsequently accepting the provisions hereof, be and the same are

hereby declared good and valid to all intents and purposes, as though they had been made to corporations organized under the provisions of this act.

§ 7. WHEN ENTITLED TO PRIVILEGES OF THIS ACT.] Section nineteen is amended as follows: After the word "heretofore" in second line insert "or hereafter."

Approved, March 11, 1887.

CHAPTER 35.

FORMATION OF PRIVATE CORPORATIONS.

AN ACT To Amend Section 384 of Chapter 3, of the Civil Code.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PRIVATE—LIMITED.] That section 384 of chapter 3 of the Civil Code be and the same is hereby amended to read as follows:

§ 384. Private corporations can be formed by the voluntary association of three or more persons, upon complying with the provisions of this chapter for the following purposes, namely: mining, manufacturing and other industrial pursuits; the construction or operation of railroads, wagon roads, irrigating ditches, for colleges, seminaries, churches, libraries; benevolent, charitable and scientific associations; for conducting the business of insurance, banks of discount and deposit (but not of issue) and for loan, trust and guarantee associations; *Provided, however,* that no insurance company shall be incorporated under the provisions of this act except by the voluntary association of seven or more persons.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 7, 1887.

CHAPTER 36.

REGULATING MEETING OF RAILROAD DIRECTORS.

AN ACT To Amend Subdivision 3, of Section 412, of the Civil Code of the Territory of Dakota, Relating to Meetings of Directors of Corporations.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **PLACE OF MEETING OF DIRECTORS.**] Subdivision three of section 412, of the Civil Code is hereby amended by adding the following words: *Provided*, That the meetings of the boards of directors of railway corporations having one or more directors resident in this Territory, or having duly appointed an agent resident in this Territory, upon whom service may be made, may be held at any place mentioned in the notice convening said board of directors, either within or without the Territory.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

COUNTIES.

CHAPTER 37.

CANCELLATION OF COUNTY WARRANTS.

AN ACT To Cancel Certain County Warrants.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **WARRANTS TO BE CANCELLED—WHEN.**] That the board of commissioners of the several counties of this Territory be and they are hereby authorized and required, at each regular meeting, to cancel and destroy all warrants drawn on any fund of the county which may have remained uncalled for and on file for

a period of six years and upwards next preceding the regular meeting on which the cancellation takes place.

§ 2. DESCRIPTION TO BE ENTERED IN MINUTES.] Said commissioners, before cancelling and destroying any such warrants, shall cause to be entered in the minutes of their proceedings a brief description thereof, containing the name of the payee, the number, date and amount of each warrant to be destroyed.

§ 3. This act shall take effect on and after July 1, 1887.

Approved March 11, 1887.

COUNTIES—DIVISION OF.

CHAPTER 38.

PRESCRIBING MANNER IN WHICH COUNTIES MAY BE DIVIDED.

AN ACT Authorizing the Division of Counties, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ELECTORS MAY PETITION.] That whenever five hundred (500) legal voters of any county in this Territory, residing in that portion of the county proposed to be segregated, shall petition the board of county commissioners of such county, requesting the said board to call an election at which the question of the segregation of such county, as in this act provided, may be submitted, and describing in said petition the boundaries of said portion proposed to be segregated, and the proposed name of said new county, which name shall be different from every other county in the Territory, the board of county commissioners of said county shall, within thirty (30) days after receiving such petition, make an order declaring that it is proposed to organize, with the assent of the qualified voters thereof, a new county out of a portion of their county describing, as in the petition, the boundaries of said new county, and to give it the name specified in such petition; and said board shall include in said order a notice for an election to be held by the qualified voters in said portion proposed to be segregated, at the usual voting precincts, on some day within thirty (30) days therefrom, to determine whether or not such territory shall be the county of —— (giving name as specified in the petition referred

to;) *Provided, however,* That no petition shall be considered by any board of county commissioners, in which it is requested that a county be divided so as to leave less than twenty-two (22) congressional townships, or an equivalent in area, to either part of its divisions; and, *Provided further,* That the number of votes polled at the last general election in any portion desiring to be segregated under the provisions of this act, shall have been seven hundred and fifty (750) or more, and that the number of votes cast at the last general election in that portion of a county from which another portion desires to segregate, under the provisions of this act, shall have been seven hundred and fifty (750) or more; and, *Provided further,* That the question of the division of such county shall have never been submitted to a vote in the said county, by reason of any special act of the Legislative Assembly, of the Territory of Dakota.

§ 2. COUNTY COMMISSIONERS GIVE NOTICE OF ELECTION.] The board of county commissioners, petitioned as provided by section one (1) of this act, shall cause twenty (20) days notice of such election to be given by publication in a newspaper, if one be published in the proposed new county, and by posting up three (3) copies of said notice at public places in each of the several election precincts within the boundaries of such proposed new county, and shall, at least ten (10) days prior to such election, appoint three (3) capable and discreet persons possessing the qualification of electors, to act as judges at each precinct and for each of the polls of election; and notices of such election shall be posted, notices of appointments shall be served, and all other matters for such election shall be governed by the laws then existing, so far as they are applicable, for general elections.

§ 3. ELECTORS VOTE BY BALLOT.] The qualified voters of any county to be organized under the provisions of this act shall vote by ballot, having thereon the words: "For organization of county (giving name specified in the petition referred to in section one (1) of this act) 'Yes,' " or the words: "For organization of county (giving name specified in the petition referred to in section one (1) of this act) 'No.' "

§ 4. COUNTY CLERK CERTIFY RESULT OF ELECTION TO SECRETARY OF TERRITORY.] On the fifteenth (15th) day after the close of any election under this act, or as soon thereafter as all the returns are received, the said board of county commissioners shall proceed to canvass said returns and make a statement showing the whole number of ballots cast at such election, the number having the word "Yes" thereon, and the number having the word "No" thereon, and if such county commissioners are satisfied as to the legality of such election, and shall find that two-thirds (§) of the whole number of ballots cast at said election have the word "Yes" thereon, they shall instruct the county clerk to immediately make a certified copy of such statement and forward the same to the Secretary of this Territory.

§ 5. GOVERNOR TO APPOINT THREE COUNTY COMMISSIONERS.] Within thirty (30) days after receiving said certified copy of such statement, as provided for by the preceding section of this act, if satisfied that the same is genuine, and that the election certified to has been legally held, it shall be the duty of the Governor of this Territory, and he is hereby authorized to appoint three (3) persons, residents of the county organized under this act, possessing the qualifications of electors, who will accept and qualify in such office, county commissioners for such county, who shall hold their office until the first general or annual election thereafter, i. e., until the Tuesday next after the first Monday in the following month of November, and until their successors shall be elected and qualified; and thereupon, upon the qualifying of said commissioners, said county shall be deemed to have existence as such and be governed by the laws of the Territory relating to counties.

§ 6. COUNTY COMMISSIONERS SHALL APPOINT COUNTY OFFICERS.] The county commissioners appointed under the provisions of the preceding section of this act, after having qualified according to law, shall appoint all the county officers of the county organized under this act, and of which they are commissioners as required by law, who, after having qualified, shall hold their offices until the first general election thereafter and until their successors shall have been elected and qualified; *Provided, however,* That all justices of the peace and constables, in office as such, within the boundaries of any county organized under this act, shall continue, by virtue of their election, in office as justices of the peace and constables in and for such county, for the remainder of their term, and shall give bonds to the county organized under this act of the same amount and in the same manner as had previously been given by them to the original county.

§ 7. COUNTY SEAT, HOW LOCATED.] Said county commissioners shall have power to temporarily fix the county seat, and such location shall remain the county seat until the first general election thereafter, when the qualified voters of such county are empowered to vote for and select the place of county seat by ballot, as provided by law; *Provided, however,* That no person shall be entitled to vote at such election unless he is a qualified elector as provided by the laws then existing. Immediately after the selection of said county seat is ascertained, either by the county commissioners' selection thereof or by the canvass of the returns of votes, the county commissioners shall issue their proclamation announcing such fact, and publish the same in a newspaper published in said county, if there be one, or if not, by posting a copy thereof of in a public place in each election precinct of said county.

§ 8. WHEN THE COUNTY COMMISSIONERS TO BE GOVERNED BY EXISTING LAW.—In all matters not specially provided for in this act the county commissioners appointed under this act shall be governed by the laws then existing.

§ 9. WHEN ELECTION IS TO BE GOVERNED BY GENERAL LAW.] All elections under this act, where not otherwise provided, shall be conducted in the same manner as required by law in general elections, and no refusal or neglect on the part of any official to perform his lawful duties in connection therewith shall in anywise affect the validity of said election.

§ 10. COMMISSIONERS TO PROCURE TRANSCRIPTS.] The commissioners of any county organized under this act are hereby empowered and it is made their duty to procure transcripts of all records of the original county that, in their judgment, may be necessary for the use and benefit of their county, and it is hereby made the duty of all county officers having the custody of any books papers and records to allow such commissioners, or any authorized person in their behalf, full and free access to any and all such books, papers and records for the objects and purposes herein named and for the completion thereof.

§ 11. NEW COUNTY SHALL ASSUME JUST PROPORTION OF INDEBTEDNESS.] Any county organized under this act shall assume and pay, as herein provided, a just proportion of the indebtedness of the county from which it segregated, based upon the last assessed valuation of said original county, and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county; and it is hereby made the duty of the commissioners of both the county organized under this act and the county from which the latter segregates, to meet together at the county seat of the original county on the third (3d) Monday in the sixth (6th) month following the appointment of county commissioners by the Governor, as provided for in this act. They shall ascertain, as near as may be, the total outstanding indebtedness of the original county on the first (1st) day of January or July, as the case may require, next preceding the date of the joint session provided for in this section, and from such total they shall make the following deductions, to-wit:

1. The amount of all dues for rents.

2. The amount of outstanding bonds given, or money paid for public property owned by, and remaining within, the limits of the original county.

3. The amount of public funds on hand and belonging to the original county on the day for which its outstanding indebtedness is ascertained by the joint board of county commissioners, as provided for in this section, and not belonging to the special funds hereinafter mentioned. The amount remaining after such deductions shall have been made shall, for the purpose, and as a basis for the settlement herein provided, be the amount which the county organized under this act shall pay a proportion of, in the proportion hereinbefore specified, and it shall be the duty of such commissioners to ascertain and fix the amount the county organ-

ized under this act shall assume and pay to the county from which it segregates.

§ 12. CERTAIN MONEYS TO BE TURNED OVER.] All moneys on hand at the time of the settlement provided for in the preceding section of this act, in a county from which a portion segregates, pertaining to special funds, such as fire, school, road funds, and others, and property belonging to the districts within the boundaries of a county organized under this act, shall be turned over in full by the treasurer of the original county to the treasurer of the county organized under this act, and shall be duly received for by the latter and shall by him be placed to the credit of the districts within his county, to which they properly belong.

§ 13. WHEN MONEYS TO BE TURNED OVER TO NEW COUNTY.] Any county in which the amount of public funds on hand at the time of settlement provided for in section eleven (11) of this act exceeds the total of its outstanding indebtedness, shall, after deducting such outstanding indebtedness, and after making the deductions provided for in section eleven (11) of this act from the amount of such public funds on hand, pay over to the county segregated from it and organized under this act, a just proportion of such funds, based upon the assessed valuation of the whole of the original county in and for the year prior to the date of such segregation, and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county. The boards of county commissioners shall meet as provided in section eleven (11) of this act and ascertain the amount so to be paid, and the board of county commissioners of the original county shall issue warrants for such amount, payable immediately to the treasurer of the county organized under this act, and the amount so received by the latter shall be by him placed to the credit of the proper funds of his county.

§ 14. COMMISSIONERS TO REDISTRICT COUNTY.] The county commissioners of a county from which a portion segregates under this act shall, immediately after such segregation, redistrict their county into the districts provided for by the laws then existing, and shall fill the vacancies occasioned by such segregation in the manner provided by law for filling vacancies in county districts or precinct offices.

§ 15. WHEN DISTRICTS RENUMBERED AND RENAMED.] School districts and road districts within counties affected by this act shall be renumbered so as to make their numbers in each county run consecutively, and the names of school townships may, when necessary, be changed.

§ 16. WHEN DISTRICT TO BE HOLDEN FOR BONDS.] When the boundaries of any school district or school township have been changed under and by the provisions of this act, that portion of such school district or school township in which the school houses

and other property remain shall be holden for the bonds, if any, issued by such school district or school township, and if such portion shall have been attached to another school district or school township the school district or school township to which such portion has been attached shall be holden for the bonds if any, of the school district or school township to which such portion formerly belonged.

§ 17. **VALIDITY OF BONDS.**] The validity of bonds issued by school districts or school townships prior to the division of any county under this act, shall in no wise be affected by such division or by the renumbering or renaming of the school district or school township that issued them.

§ 18. **FEES OF COUNTY COMMISSIONERS.**] County commissioners while in the discharge of their duties as provided for in the preceding sections of this act, shall receive the same pay allowed by law as when in the performance of their ordinary official duties.

§ 19. **INDEBTEDNESS OF NEW COUNTY.**] The amount of indebtedness of a county organized under this act, as ascertained by the two (2) boards of county commissioners, in compliance with the provisions of preceding sections of this act, shall be paid to the county from which it segregates, in the bonds of the new county thus segregated, as hereinafter provided.

§ 20. **WHEN BONDS TO BE DATED.**] Such bonds shall be dated on the first (1st) day of January or July, from which the outstanding indebtedness of the original county is calculated as provided for in section eleven (11) of this act, shall be issued for a period corresponding with the time or terms on which the obligations of the original county become due and payable, shall be payable at the same place and shall bear the same rate of interest as the obligations of the original county, said commissioners taking care to classify the liquidating bonds, issuing a due proportion of each in proportion to each of the original county obligations bearing different rates of interest and places of payment, and said original county shall have authority to exchange such bonds for an equal amount of obligations of its own of the same class.

§ 21. **COUNTY TREASURER TO KEEP BOND REGISTER.**] The county treasurer of a county issuing bonds under the provisions of this act shall provide himself with a book to be called the "bond register," wherein he shall note the number and denomination of each bond issued by his county, the date of issue, when and where payable, with such other facts as the county commissioners of his county shall direct, which "bond register," when completed, shall be deposited with the clerk of the county commissioners of his county, and shall be and remain a part of the records of the same.

§ 22. **COUNTY COMMISSIONERS TO ISSUE LIQUIDATING BONDS.**] The board of county commissioners of a county organized under this act are hereby empowered and directed to issue such liquidat-

ing bonds in denominations as may be required by the old county, not to exceed one thousand (1,000) dollars each, and deliver the same to the county clerk of the old county, who shall receipt therefor, attaching the seal of his office to such receipts, and the county clerk of a county organized under this act shall enter such receipts at large upon the records of the county commissioners and note the same in the bond register of his county.

§ 23. COUNTY COMMISSIONERS TO LEVY TAX.] The board of county commissioners of a county issuing bonds under the provisions of this act shall for each year after the date of issue of such bonds, levy and cause to be collected a tax sufficient to pay the interest on said bonds as it shall become due, and also such sinking funds as shall correspond with the laws under which the bonds of the original county were issued, sufficient to redeem said bonds at maturity; and as fast as such sinking fund shall become available they shall redeem such bonds in the manner provided for redeeming the bonds of the original county; *Provided, however,* that public notice shall be given by such board of county commissioners in a newspaper, if one be published within their county, setting forth that certain bonds, giving their number and otherwise describing them, will be redeemed by their county, and naming the date of such redemption.

§ 24. INTEREST FOR REDEMPTION OF BONDS.] The money collected for the payment of the interest or principal of such bonds shall not be used for any other purpose until such bonds are redeemed; any surplus thereafter shall be placed in the general county fund.

§ 25. REVENUE OF COUNTIES.] The authority of any county from which a portion segregates, under the provisions of this act, for the collection of revenue within the boundaries of the portion segregated, shall cease from the date upon which the two (2) boards of county commissioners, under the provisions of section eleven (11) of this act, base the settlement between their counties and all assessments and levies made by the authority of the county from which a portion segregates, by its officers, in the lawful performance of their official duties, affecting any of the territory embraced in the boundaries of a county organized under this act, shall remain the same and shall be payable to, and collectible by, the lawful authorities of the latter only.

§ 26. JUDICIAL SUBDIVISION.] Any county organized under the provisions of this act shall, as soon as its organization shall have been completed, constitute and be created a judicial subdivision of the judicial district to which it properly belonged at and before the time of its organization.

§ 27. JUDGE TO APPOINT TERM OF DISTRICT COURT.] The judge of the judicial district in which a county organized under this act is created a legal subdivision of his district under the provisions of the preceding section, shall appoint and hold terms of

the district court at the county seat of said county, at least one term each year.

§ 28. **VENUE, WHEN CHANGED.**] In all actions or proceedings, civil or criminal, the crime wherein was committed, or the disputed premises therein, be within the boundaries of any judicial subdivision created under the provisions of this act, and which properly belong to such subdivision under provisions of the Codes of Civil and Criminal Procedure, the venue thereof shall be changed to the new county by order of the court, or the judge thereof, upon the demand of either party, which demand shall be served upon the opposite party, or his attorney, if either can conveniently be found in this Territory; but if neither can conveniently be found in this Territory, then such change of venue may be made upon filing such demand with the clerk of the district court having the case on its calendar.

§ 29. **WRITS, BONDS AND RECOGNIZANCES.**] All process, writs, bonds, notices, appeals, recognizances, papers and proceedings in actions, changed to a new county under this act and created a legal subdivision thereunder, issued and made returnable to the district court of the county from which a portion has been segregated and organized under this act prior to the creation of such legal subdivision, shall be taken and considered as made, taken and returnable to the district court within the boundaries of such new judicial subdivision, and such bonds, recognizances and obligations shall be payable to such new county and recoverable upon in the name of such new county, and all papers and certified copies of all proceedings had in such changed actions shall be transmitted by the clerk of the district court of the old to the clerk of the district court of the new county.

§ 30. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 31. This act shall take effect and be in force from and after its passage and approval.

HALL OF THE HOUSE OF REPRESENTATIVES,
BISMARCK, Dak., March 11, 1887.

I, George G. Crose, Speaker of the House of Representatives, hereby certify that on the 1st day of March, the attached act of the Legislative Assembly of this Territory, "An act authorizing the division of counties and for other purposes," was returned to the House of Representatives, the body in which it originated, without the approval of his Excellency, Governor Louis K. Church, with his objections to this act in writing. His objections were entered at large upon the journal of the House of Representatives, and after consideration action on the act was deferred until this date first above written, when the House of Representatives proceeded to reconsider the act, and after such reconsideration two-thirds of the House of Representatives voted in the affirmative on the question shall the act pass, the objections of the Governor to the contrary notwithstanding.

Attest: W. G. EAKINS,
Chief Clerk.

GEORGE G. CROSE,
Speaker of the House.

COUNCIL CHAMBER,
BISMARCK, Dak., March 11, 1887.

I hereby certify that the within act, together with the objections of his excellency, Governor Louis K. Church, was received from the House of Representatives this day; that the objections by the Governor were read at length and the question stated "Shall this act be passed, the objections of the Governor to the contrary notwithstanding?" The roll of the Council was called and the act did pass, more than two-thirds of the members of the Council present and voting, voting in the affirmative.

Attest: T. A. KINGSBURY,
Chief Clerk.

G. A. MATHEWS,
President of the Council.

DEAF MUTE SCHOOL.

CHAPTER 39.

AUTHORIZING ISSUE OF BONDS FOR SHOP AND BARN AND PURCHASE OF LANDS.

AN ACT to Provide Funds and Appropriate the Same, for the Purpose of Building a Shop and Barn, and Purchasing Land for the School of Deaf Mutes, at Sioux Falls, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **BONDS TO BE ISSUED.**] That for the purpose of providing funds to pay for building a shop and barn, and for purchasing land for School of Deaf Mutes at Sioux Falls, Dakota, and for other purposes, the Territorial Treasurer is hereby authorized and empowered, and it is hereby made his duty, to prepare for issue twenty-three thousand (23,000) dollars of Territorial bonds, running for term of twenty (20) years, and payable at the option of the Territory after ten (10) years, and bearing interest at the rate of five (5) per cent. per annum, made payable semi-annually, on the first day of July and January each year. Such bonds shall be executed under the seal of the Territory, by the Governor and Treasurer of the Territory.

§ 2. **PROPOSALS FOR BONDS.**] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon request of the board of trustees of said school, he shall give public notice for thirty days in two newspapers of general circulation, one of which shall be published in the city of New York, and said bonds shall be sold to the highest bidder for cash; *Provided*, That said bonds shall not be sold at less than par value.

§ 3. **TAX FOR PAYMENT OF BONDS.**] For the purpose of prompt payment of principal and interest of the bonds herein provided for, there shall be levied by the Territorial Board of Equalization at the time the other taxes are levied, and collected in the same manner as Territorial taxes, such sums as shall be sufficient to pay such interest and exchange thereon, and after nine years from the first day of May, 1887, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay such bonds at their maturity, and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year

such interest as shall be due, and to purchase said bonds at their market value and retire and cancel the same with the sinking fund tax as fast as the same be received, and no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 4. PAYMENT OF INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient funds herein provided to pay the interest upon such bonds when due, he shall pay such interest out of any other unappropriated funds belonging to the Territory; and there is hereby appropriated and set apart out of the general funds belonging to the Territory a sum sufficient to pay interest on said bonds as may become due before the funds and taxes therein provided for can be made available, and it shall be the duty of said Treasurer, to pay said interest promptly at the time it falls due, out of said fund.

§ 5. REPLACING OF FUNDS.] All moneys belonging to the general Territorial funds, applied by said Treasurer in payment of the interest of said bonds shall be replaced from the special tax levied to pay the same.

§ 6. DUTY OF TRUSTEES.] And the board of trustees of said school are hereby empowered and directed to commence the construction of a shop and barn, and purchase land for the School of Deaf Mutes at Sioux Falls, and to complete the same, and to construct such other improvements as herein contemplated. Said board of trustees shall make a full and detailed report of their expenditures and actions, and render to the next Territorial Assembly the same.

§ 7. APPROPRIATED.] There is hereby appropriated out of the Territorial Treasury all the funds realized by the sale of the bonds provided for in this act, said funds to be expended as follows:

1. For purchasing land for said School of Deaf Mutes, the sum of three thousand dollars.

2. For building shop, the sum of three thousand dollars; for purchasing a printing outfit, five hundred dollars; for purchasing one complete set each of the following kinds of tools, viz: tanners, shoemakers, cabinetmakers and tailoring, one thousand dollars.

3. For building a laundry, one thousand dollars; for machinery for laundry, eight hundred dollars; for bath rooms, four hundred dollars; for drying room and sewerage, thirteen hundred dollars.

4. For purchasing steam heating apparatus, two thousand dollars.

5. For building barn, fifteen hundred dollars; for three horses, three hundred and seventy-five dollars; for five cows, one hundred and twenty-five dollars; for harness, seventy-five dollars; for necessary vehicle, one hundred dollars; for pig pen, etc., two hundred and fifty dollars.

6. For grading and setting out trees, one thousand dollars.

7. For repairing cracked walls, painting main building, purchasing range and miscellaneous fund, two thousand dollars.

8. For water and fire protection, laying water and gas pipes to the school and placing such pipes in all the buildings, five thousand dollars.

9. And it shall be the duty of the Auditor of the Territory, upon the application of the board of trustees, or a majority thereof, of said School of Deaf Mutes, to draw on the Territorial Treasurer for the purpose of constructing the building, and for purchasing land, and for the other purposes contemplated and provided for in this act, or so much thereof as may be necessary.

§ 8. IN CASE OF DIVISION.] In case of the division of this Territory, that part of said Territory in which said School of Deaf Mutes is situated shall assume and pay said bonds and coupons which are issued by virtue of this act.

§ 9. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 40.

APPROPRIATION FOR SUPPORT AND MAINTENANCE.

AN ACT Appropriating Money for the Support and Maintenance of the School of Deaf Mutes at Sioux Falls, for the ensuing Two Years.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATED.] That the following sums of money are hereby appropriated, or so much thereof as may be necessary, out of any money in the Territorial Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the School of Deaf Mutes at Sioux Falls, Dakota, for the ensuing two years:

For the maintenance of the pupils in the Dakota School of Deaf Mutes, and for their necessary clothing, for fuel and lights, and for the board of employes and officers residing in the school, the sum of twenty-two thousand (22,000) dollars.

For pay of the superintendent, three thousand (3,000) dollars.

For pay of the matron, twelve hundred (1,200) dollars.

For pay of physician and medicine, eight hundred (800) dollars.

For pay of one head teacher, twelve hundred (1,200) dollars.

For pay of two assistant teachers, two thousand (2,000) dollars.

For pay of superior of boys, eight hundred (800) dollars.

For pay of night watchman, eight hundred (800) dollars.

For pay of one cook and three dining room and kitchen girls, fourteen hundred and fifty (1,450) dollars.

§ 2. This act shall take effect and be in force from and after the fifteenth day of June 1887.

Approved, March 11, 1887.

CHAPTER 41.

COMPENSATION OF TRUSTEES.

AN ACT To Amend Chapter 26 of the Special Laws of 1883, Establishing School for Deaf Mutes and Providing for the Government and Maintenance of the Same, and Repealing Part of Chapter 56 of Session Laws of 1881.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COMPENSATION OF TRUSTEES.] That section four of chapter 26, of the Special Laws of 1883, be amended so as to read as follows: The trustees shall receive as compensation for their services three dollars per day for each day actually employed, not to exceed twenty-four days in any one year, and five cents per mile for each mile actually and necessarily traveled in attending the meetings of said board. Upon the presentation of the proper vouchers containing a statement of days attendance and mileage, duly signed by the president and secretary of said board, the Territorial Auditor shall draw his warrant upon the Territorial Treasurer for the proper amount to be paid out of the Territorial Treasury.

§ 2. SALARIES.] That part two, of section seven, of said chapter be amended by adding the following, "not to exceed \$1,500 per annum for the superintendent, and not to exceed \$600 per annum for the matron; and said board shall have power to employ such other teachers, assistants, watchmen and servants as the proper conduct and efficient management of said school may require, and to fix the compensation for the same."

§ 3. BOARD TO HAVE POWER TO APPOINT SUPERINTENDENT.] That section eleven of said act be amended by adding thereto the following: Said board shall have power to appoint one of their number superintendent of buildings and improvements, who shall receive three dollars per day for each day actually and necessarily employed as such superintendent, not to exceed fifty days in any one year, to be paid out of the Territorial Treasury upon proper vouchers.

§ 4. REPEALED.] That all of chapter fifty-six, of the Session Laws of 1881, approved, February 23, 1881, so far as relates to the

maintenance of the pupils of the School for Deaf Mutes, at Sioux Falls, and to the compensation of the superintendent and matron of the same be and the same is hereby repealed.

Approved, March 11, 1887.

DIVISION OF THE TERRITORY.

CHAPTER 42.

QUESTION TO BE SUBMITTED TO VOTE AT SPECIAL ELECTION.

AN ACT Entitled an Act to Submit to the Legal Voters of the Territory of Dakota the Question of the Division of the Territory.

Preamble. WHEREAS, It has become evident that in justice and fairness to all the people, and in the interest of harmony and good will among all sections of the Territory of Dakota, and in support of the just and earnest demand of many citizens for division and statehood, the question of division of the Territory should be submitted to a vote of the people at the earliest possible day, therefore

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **QUALIFIED VOTERS—DIVISION.**] That an election for the Territory of Dakota shall be held on the first Tuesday after the first Monday of November, 1887, that being the date of the annual election, at which election the qualified voters of the Territory shall vote upon the question of division of the Territory upon an east and west line upon the seventh standard parallel.

§ 2. **BALLOT TO BE USED.**] The ballots for this purpose may be written or printed as follows: "For division," "Against division."

§ 3. **TO BE CONDUCTED SAME AS GENERAL ELECTION.**] The election provided for in section one of this act shall be conducted in all respects as elections under the general laws of this Territory, and the expenses thereof paid in the same manner. The several county clerks of the several counties of the Territory are hereby required to issue notice of such election at least twenty

days prior thereto, which notice shall state the object of said election, and shall deliver the same to the sheriff, who is required to post the same as the law relating to general elections now requires; and the several boards of county commissioners are required to establish precincts for such election, and to appoint polling places and judges of such election, and to do and perform all things that are now required of them by law in case of general elections.

§ 4. DUTY OF JUDGES.] That it shall be the duty of the officers and judges of such election respectively, to receive, count and canvass such ballots, and to make returns of such count and canvass in the same manner as is by law provided for general elections; and the laws governing as to elections shall in all respects apply and be observed in the election for which this act provides.

§ 5. DUTY OF BOARD OF CANVASSERS.] It shall be the duty of the several boards of canvassers, after they shall have canvassed the vote upon division as herein provided, to certify to the Governor the result of such canvass and the whole number of votes cast by counties upon said question, and the whole number of votes cast for division and the whole number cast against division. The Governor shall, immediately upon receipt of such certificates, make public proclamation thereof, and shall also forward a certified copy of such certificate of the result of such election, to the President and the Congress of the United States. The result of such election, duly authenticated, shall be preserved by and kept in the office of the Secretary of the Territory, as the results of other elections are authenticated and preserved.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

DRAINAGE.

CHAPTER 43.

AMENDING LAND DRAINAGE ACT.

AN ACT To Amend Chapter Seventy-five of the General Laws of 1883, in Regard to Drainage as Amended by Chapter Forty-seven of the General Laws of 1885.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AMENDMENT.] That the words "register of deeds" be stricken out wherever they occur in chapter seventy-five of the General Laws of 1883, as amended by chapter forty-seven of the General Laws of 1885, and the words "county clerk or county auditor" be inserted in lieu thereof.

§ 2. AMENDING SECTION 2.] That section two of chapter seventy-five of the General Laws of 1883 be amended by striking out the words "and they shall" where they occur in line fifty before the words "in tabular form," and inserting in lieu thereof the words "and such surveyor shall."

§ 3. AMENDING SECTION 10.] That section ten of said chapter seventy-five be amended by adding thereto the words: "when the same are collected by the county or township treasurer as hereinafter provided."

§ 4. AMENDING SECTION 11.] That section eleven thereof be amended by striking out the word "viewers" in line seventeen and inserting in lieu thereof the word "reviewers."

§ 5. AMENDING SECTION 16.] That section sixteen thereof be amended by striking out the word "final" in line seven and by striking out all of said section after the word "completed" in line nine.

§ 6. AMENDING SECTION 17.] That section seventeen thereof be amended by striking out, in line four the words "either the following manner" and inserting in lieu thereof the words "any of the following matters."

§ 7. SALE OF WORK TO LOWEST BIDDER.] That all of the section nineteen of chapter seventy-five of the General Laws of 1883, be stricken out and the following substituted:

§ 19. As soon as the board of county commissioners or township board establish any public ditch, drain or water course, and

the viewers or reviewers have fixed the time in which the shares or allotments of said ditch shall be constructed, the county clerk or county auditor or township clerk shall sell the job of digging and constructing such ditch or drain in single shares or allotments, groups of shares or allotments, or as a whole, as he may deem best for all parties interested, and he shall give notice by publication for three consecutive weeks in some newspaper published in the county where such work is to be done, or if there be no newspaper published in said county, by posting for three weeks three written copies of such notice in three public places in the vicinity of the proposed work, and one at the door of the court house in said county, of the time when and the place where he will sell to the lowest responsible bidder or bidders the said shares or allotments, and no bid shall be entertained which exceeds more than twenty per cent. over and above the estimated cost of the construction in any case; and the county clerk or auditor or township clerk shall contract with the party to whom a share or allotment, group of shares or allotments or the whole number of shares or allotments is sold, requiring him to construct the same in the time and manner set forth in the report of the viewers or reviewers, on which the ditches or drains are established, and take from him a bond with two freehold sureties, payable to the Territory, for not less than double the amount for which the same is sold, to be by him approved, conditioned that he will faithfully perform and fulfill his contract, and pay all damages which may accrue by reason of the failure to complete the job within the time required in the contract therefor; *Provided*, That the work of constructing such ditch or drain shall commence at the outlet thereof and proceed up towards the source, which shall not be opened or constructed until all lower parts of the ditch are fully completed and accepted.

§ 8. **INSPECTION OF WORK.**] That all of section twenty-one of said chapter seventy-five, be stricken out and the following substituted:

§ 21. It shall be the duty of the county surveyor, on being notified by any contractor that his job is completed, to inspect the same, and if he find that it is completed according to contract, he shall accept it and give to the contractor a certificate of acceptance, stating that said job, share or allotment is completed according to the specifications of said ditch or drain, which certificate shall be a lien upon the land assessed for such share or allotment, and when a copy of such certificate is filed with the county clerk or auditor, he shall charge the amount mentioned in said certificate on the tax duplicate, against the land assessed, to be collected as other taxes are collected, and when collected it shall be paid to the person holding the certificate, on an order of the county clerk or auditor.

§ 9. **DUTY OF VIEWERS.**] Insert after section twenty-one of said chapter seventy-five, the following section:

§ 22. Upon the letting of the contracts for the construction of said ditch, drain or water course, and the approval of the bonds to secure the same, it shall be the duty of the viewers if such work is let under their report, or of the reviewers, if let under them, to meet at their former place of meeting within ten days thereafter and make a final report, in which they shall apportion the cost of locating and constructing such ditch, drain or water course, including penalties, fees, damages if any shall have been allowed, and compensation to the viewers, reviewers, surveyor and necessary assistants at the rates hereinafter specified, and award to each person or corporation owning lands assessed for the construction of said work, their proportionate share of such cost, and shall file their report with the county clerk or auditor, after having subscribed and sworn to the same. And it shall be their duty to file with their report an account of the names of the assistants and the time each was employed by them, and the awards so apportioned, shall be entered up by the county clerk or auditor, on the tax list and duplicate, as a tax against such property and shall be collected by the treasurer as other taxes are collected, and the amount so collected shall be paid out by the treasurer to the parties entitled thereto on an order from the county clerk or county auditor.

§ 10. AMENDMENT OF SECTION 28.] That section twenty-eight of said chapter seventy-five be amended by striking out the words, "and perform said labor," in line nine thereof.

§ 11. COMPENSATION.] Strike out all of section thirty-one of said chapter seventy-five, and substitute the following:

§ 31. The surveyor or engineer shall be allowed the sum of three dollars per day for each day he is necessarily engaged in performing the duties required of him by this act. The viewers and reviewers shall each be allowed two dollars per day for each and every day they are necessarily engaged in viewing and reviewing, and ditching, and making up and filing their reports, each chainman, axman, rodman, and all other hands necessary to the prompt execution of the work of locating a public ditch, shall be allowed one dollar and fifty cents per day for the time actually employed.

§ 13. That the sections of said chapter seventy-five be renumbered to conform with the foregoing amendments.

§ 14. That all acts and parts of acts in conflict with this act are hereby repealed.

§ 15. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

EDUCATION.

CHAPTER 44.

TEACHERS OF PUBLIC SCHOOLS TO KEEP RECORD OF VISITS OF COUNTY SUPERINTENDENTS.

AN ACT Entitled an Act to Require Teachers of Public Schools to Keep a Record of the Visits of County Superintendents.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TEACHERS TO KEEP REGISTER.] A register of superintendents' visits shall be kept in each school house in the Territory, and it shall be the duty of the teacher, at the time of each visit of the county superintendents of schools to forthwith enter a record of such visit, showing the date of such visit and the time spent in such school by the superintendent, and forthwith to transmit by mail to the county clerk or county auditor, as the case may be, a full and complete copy of such entry, attested by the teacher, which copy shall be kept on file as a public record by the county clerk or auditor.

§ 2. STATEMENT TO COUNTY COMMISSIONERS.] Whenever any county superintendent renders his account for services to the board of county commissioners, he shall designate in such account each charge for visiting any school in the county, and this charge shall be separate from all other items, and no compensation for any such visit shall be allowed by any board of county commissioners until the copy of entry, required by the preceding section has been filed, as therein required.

§ 3. PENALTY.] Any person wilfully making or causing to be made any false entry, certificate or record, required by this act, or violating any provision thereof, shall forfeit to the county the sum of twenty-five (25) dollars, to be recovered in civil action, prosecuted by the district attorney, in the name of the county.

§ 4. This act shall take effect and be in force from and after the first day of April, 1887.

Approved, March 8, 1887.

CHAPTER 45.

REGISTRATION AND PAYMENT OF SCHOOL WARRANTS.

AN ACT to Provide for the Registration and Payment of Warrants Drawn by the Secretary and President of Boards of Education in this Territory, and to Prescribe the rate of Interest Thereon.

Be it Enacted by the Legislative Assembly of the Territory of Dakota.

§ 1. WARRANTS DRAWN BY PRESIDENT AND SECRETARY OF BOARDS OF EDUCATION—HOW PAID.] Every warrant legally drawn by the president and secretary of any board of education shall be paid by the treasurer of such board in the order of their presentation, and when presented, so long as there is any money whatever in the treasury applicable thereto. Every warrant shall specify the purpose for which the money is paid, and the person, firm or corporation to whom paid. In case the treasurer has no money applicable to the payment of the warrant he shall endorse it, "Presented this . . . day of . . ., and not paid for want of funds," inserting the date of the presentment in the blank, and sign the endorsement, and if he has money to pay a portion of the amount, he shall pay so much of the warrant, and shall endorse thereon the date and amount paid, and add, "the balance not paid for want of funds," and sign the same; and interest at eight per cent. per annum shall accrue upon the amount unpaid of all warrants substantially so endorsed, from the date of such endorsement.

§ 2. TREASURER TO KEEP WARRANT REGISTER AND REGISTER WARRANTS.] The treasurer of every board of education shall provide himself with and keep a warrant register, which register shall show in a column arranged for that purpose, in the order of their presentation, the number and the amount of each warrant presented, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person to whose name the same is registered, the date of payment, when made, the amount of interest, the total amount paid them, with the date when notice to the person in whose name such warrant is registered is mailed, as hereinafter provided.

§ 3. DUTY OF TREASURER.] It shall be the duty of every such treasurer to set aside the money for the payment of each registered warrant in the order of its registration, as soon as money sufficient for the payment of such warrant is received, to the credit of the particular fund upon which such warrant is drawn, and the interest upon such warrant shall thereupon cease, and such treasurer shall by mail immediately notify the person in whose name

the same is registered, and shall pay over to the party holding such warrant such sum when called for.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, January 27, 1887.

CHAPTER 46.

VOTE OF TWO MEMBERS OF TOWNSHIP SCHOOL BOARD NECESSARY TO LEVY TAX.

AN ACT To Amend Sections 46 and 66 of Chapter 44 of the General Laws of 1883. Education.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. RATE OF TAX, ETC.] That section forty-six of chapter forty-four of the Session Laws of 1883 be and the same is hereby amended by striking out the word "ten" where it appears in said section and inserting in lieu thereof the word "two."

§ 2. WHO TO BE VOTERS.] That section sixty-six of chapter forty-four of the Session Laws of 1883 be and the same is hereby amended by adding thereto immediately preceding the word "the" in the first line of said section the following words: "All resident taxpayers and."

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 15, 1887.

CHAPTER 47.

ESTABLISHING A GENERAL AND UNIFORM SYSTEM OF COMMON SCHOOLS.

AN ACT To Amend Chapter 44 of the Session Laws of 1883, Relating to Education.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. That the said chapter forty-four, of the Session Laws of 1883, is hereby amended to read as follows:

§ 1. SUPERVISION AND CONTROL VESTED IN TERRITORIAL BOARD OF EDUCATION.] That the general supervision and control of public instruction in the Territory of Dakota shall be vested in a Territorial Board of Education, which board shall be composed of the Territorial Superintendent of Public Instruction, who shall be president thereof, and two persons of proper learning, ability and educational experience, appointed by the Governor, by and with the advice and consent of the Territorial Council. Each member of the Territorial Board of Education, except the Territorial Superintendent, shall hold his office for a term of four years, and until his successor is appointed and qualified; *Provided*, that the member first appointed under this act shall hold for a term of two years and until his successor is appointed and qualified; and the Governor shall designate when sending the names of members to the Council, whether they are for the long or short term. Should a vacancy occur while the Legislature is not in session the Governor shall have power to fill such vacancy by appointment, which appointment shall be valid until filled by the Governor and Council as above provided; and all appointments shall be made so that one of the two members above named shall retire on March 30th, immediately following each session of the Legislative Assembly. A quorum of the Territorial Board of Education shall consist of three members, but no business shall be transacted by said board except in regular or special session; and in case of a special session, after due notice in writing of at least ten days, has been served upon each member of the board, by order of the president.

§ 2. POWERS AND DUTIES OF BOARD.] The Territorial Board of Education shall have power and it shall be their duty:

1. To select a vice president and a secretary.

2. To frame and modify at pleasure such by-laws as may be deemed expedient for their own government, not inconsistent with the provisions of this act, and to prescribe and cause to be en-

forced all rules and regulations necessary for carrying into effect the school laws of this Territory.

3. To consider the necessities of the public schools and recommend to the Legislature, from time to time, such additions and amendments to the laws as are deemed necessary for perfecting the school system of the Territory.

4. To prescribe all rules and regulations for holding teachers' institutes.

5. To prescribe a course of study for the public schools of the Territory, including the high schools, and for all Territorial normal schools, whether established by the Territory or designated as such under the provisions of this act.

6. To authorize the payment by the Territorial Treasurer, upon the warrant of the Territorial Auditor, of all necessary incidental expenses, not to exceed three thousand dollars per annum, incurred by the Territorial Superintendent and the Board of Education in the performance of their official duties.

7. To decide all appeals from the Territorial Superintendent of Public Instruction, and prescribe the rules of practice before the educational department.

8. To prepare, or cause to be prepared, all questions for the examination of applicants for teacher's certificates, both county and Territorial, and to prescribe rules for the conduct of all examinations.

9. To issue a Territorial certificate, to be valid for the term of ten years, unless sooner revoked, to be known as the professional certificate. Such certificate shall be issued only to those persons of good moral character who pass a thorough and satisfactory examination in all the branches included in the courses of study prescribed for the common and high schools of the Territory, including methods of teaching, and such other branches as the board may direct. Such certificate shall be valid throughout the Territory, and the holder shall be authorized to teach in any of the common or high schools of the Territory without further examination, except that in cities of more than 4,000 inhabitants the school board may, at their discretion, re-examine an applicant bearing such certificate.

10. To issue a Territorial certificate to be valid for a term of five years unless sooner revoked, which shall authorize the holder to teach in any of the common schools of the Territory, and which shall be known as the normal certificate. Such certificate shall be issued only to those persons of good moral character who have completed the prescribed course of study in one of the normal schools of the Territory, or in a normal school elsewhere having an established reputation for thoroughness; but the board may examine any such applicants at their discretion. The board shall require a fee of not more than \$5 for each professional or normal certificate issued, which fee shall be used by the board to aid in the establishment and maintenance of teachers' reading circles in

the Territory; *Provided*, That no Territorial certificate shall hereafter be issued by any normal school in the Territory.

11. To revoke at any time any certificate issued in the Territory, for any cause which would have been sufficient ground for refusing to issue the same, had the cause existed or been known at the time it was issued.

12. To procure and adopt the best plans and specifications for the construction of school houses, and to furnish the same to the various school boards of the Territory, when needed, free of charge. In the construction of the plans, due attention shall be given to lighting, heating and ventilation, and the easy maintenance of the proper sanitary conditions of the buildings.

13. To publish not oftener than once in two years, the school laws in force, with such forms, regulations, instructions and decisions as they may judge expedient thereto annexed, and cause the same to be forwarded to the persons entitled to receive them. They shall prescribe and cause to be prepared all forms and blanks necessary in the details of the common school system, so as to secure its uniform operation throughout the Territory, and shall cause the same to be forwarded to the several county superintendents, to be by them distributed to the several persons or officers entitled to receive the same.

14. To make out and deliver to the Governor, on or before the fifteenth day of December preceding each regular session of the Legislature, a report containing: First—A statement of the number of common schools of the Territory, the number of pupils attending the same, their sex and the branches taught; a statement of the private or select schools of the Territory, as far as the same can be ascertained, and the number of pupils attending the same, their sex and the branches taught; a statement of the number of normal schools in the Territory, and the number of students attending them; the number of academies and colleges in the Territory and the number of students attending them, and their sex, and such other matters of interest as the board may deem expedient, drawn from the reports of the county superintendents of the several counties in the Territory, and from other reports received on the subject of education from trustees or other school boards within the Territory. Second—A statement of the financial condition of the school system of the territory, including all receipts and expenditures. Third—A statement of such general matters and such other information relating to the educational interests of the Territory as they may deem important.

15. To provide and keep a seal which shall be the official seal of the board, and by which all official acts of the board may be authenticated.

16. To meet at the office of the Superintendent of Public Instruction each month during the year; and they shall have power to adjourn from time to time, whenever the president deems an adjournment necessary. And the president shall have power to

call a special meeting of the board whenever the interests of the school work of the Territory demand it. The other two members of the board shall be assistants to the Superintendent and shall receive a salary of fifteen hundred dollars per annum each.

§ 3. TERRITORIAL SUPERINTENDENT — HOW APPOINTED — SALARY.] At each biennial session of the Legislative Assembly the Governor shall, by and with the advice of the Territorial Council, appoint the Territorial Superintendent of Public Instruction, who shall hold his office two years from the 30th day of March following his appointment. He shall have eminent educational and business qualifications.

§ 4. The Territorial Superintendent shall have full management and supervision of the public schools of the Territory, subject to such limitations as are or may be prescribed by law. He shall prescribe the duties of the assistant superintendents, and they shall perform any duties so prescribed. The Governor is authorized to remove from office any superintendent or assistant superintendent who violates or fails to faithfully discharge the duties of his office; and he is authorized to appoint a successor or successors, who shall hold their office until the end of the next session of the Legislative Council. The Superintendent shall receive a salary of two thousand five hundred (2,500) dollars per annum.

§ 5. DUTIES OF SUPERINTENDENT.] The Territorial Superintendent may decide all controversies or disputes that may come under the school laws of the Territory, or under the rules and regulations prescribed by the Territorial Board of Education. The facts of which controversies or disputes, shall be made known to him by written statements of the parties thereto, verified by oath or affirmation, if required, and accompanied by certified copies of all documents necessary to a full understanding of the question in dispute.

§ 6. To PRESERVE MISCELLANEOUS DOCUMENTS.] He shall preserve in his office such books, apparatus, maps, charts, works on education, plans for school buildings and other articles of interest to school officers or teachers, as may be secured without expense to the Territory.

§ 7. SHALL KEEP RECORD.] He shall file all school reports of the Territory and of the states and other territories which may be sent to his office or to the board of education, and shall keep a record of all the acts connected with his official duties and preserve all decisions given by him.

§ 8. SHALL DELIVER TO SUCCESSOR.] He shall, at the expiration of his term of office, deliver to his successor all property, books and documents, maps, records, reports and other papers belonging to his office, or which may have been received by him for the use of his office.

§ 9. OATH OF OFFICE.] Each member of the Board of Education and the Territorial Superintendent shall, before entering upon

their duties, take and subscribe an oath or affirmation to support the constitution of the United States and the organic act organizing the Territory of Dakota, and to faithfully discharge the duties of his office.

§ 10. ANNUAL ELECTION.] The annual school election shall be held on the third Tuesday of June in each year, beginning with the year 1887, and a polling place is hereby established in each sub-district of each township, the director of the sub-district to be the judge of election, and a clerk of the election shall be elected by the voters present at the opening of the polls. If the director should not be present a judge of election shall be chosen by the voters present.

§ 11. ELECTION OF DIRECTOR—DUTIES OF.] At the annual school election the qualified voters of each sub-district shall elect one director, who shall preside at all sub-district meetings, and who shall be a member of the township school board, except where a sub-district includes, or is composed of, an incorporated city, town or village; and in such cases such sub-district shall elect in the same manner as many directors as it has departments regularly employing separate teachers, and the said directors shall be members of the township board, and constitute the board of education of such sub-district, which board shall have the same power as the directors of other sub-districts. The director acting under the advice of the patrons of the sub-district shall have power, and it shall be his duty, to make any necessary repairs to the school house, outbuildings or grounds; purchase all supplies for the school room; to select the teachers for the schools of the sub-districts, and to perform such other duties as are prescribed by law and by the rules and regulations of the school board of the township, consistent with the law; *Provided*, That the township school board shall prescribe rules and regulations governing the expenditure of money for the purpose aforesaid; and the township board may select a teacher for any sub-district when the director and patrons of the sub-district neglect to make a selection.

§ 12. BOUNDARIES OF SUB-DIVISIONS—HOW DETERMINED.] It shall be the duty of each of the present township school boards to meet on the last Tuesday in May, 1887, and temporarily fix the boundaries of each sub-district in the townships and to make out and post a description of each subdistrict upon the door of the school house therein. In no case shall the township board number less than three members, and where there is but one school in a township, one member shall be elected therefrom and two at large. Where there are two schools each shall elect a director, and one shall be elected at large. The school board elected shall at their first meeting, or as soon thereafter as practicable, define the permanent boundaries of the sub-district.

§ 13. QUORUM.] A majority of the board shall constitute a quorum for the transaction of business, and the agreement of a

majority of the board shall be necessary to bind the township in any contract. Should the full board be composed of an even number of members, and should they be evenly divided upon any question, the question shall be considered lost.

§ 14. TOWNSHIP TREASURER, HOW ELECTED.] At the same time at which the director is elected, and upon the same ballot, the qualified voters of the township shall elect one township treasurer who shall hold his office for a term of one year. He shall take a similar oath of office to the one required of the director, and shall enter into an undertaking in favor of the school township to be approved by the board, and in a sum to be fixed by the board, but not less than double the sum, as near as can be ascertained, to come into his hands during the year, to faithfully discharge his duties as treasurer, and to render a true account of all funds and property of every kind that shall come into his hands, and pay and deliver the same according to law. The treasurer shall not be a member of the township school board. The judge and clerk of election shall, immediately after the canvass of the votes for director, send a certified copy of the vote cast for said officer to the township clerk, and the clerk shall certify the result to the county clerk without delay.

§ 15. TOWNSHIP SCHOOL BOARD TO ELECT CLERK—DUTIES OF.] The directors elected in the various subdistricts shall constitute the township school board, and they shall meet on the second Tuesday in July, and after each has qualified according to law, organize the school board by electing a chairman from their number, who shall preside at all their meetings when present, and who shall sign all orders and contracts on behalf of the board, which shall be attested by the clerk. The board shall elect a clerk, not a member of the board, whose duty it shall be to act as clerk of the school board and to perform all duties required of him by law and by the school board consistent with the law. He shall before entering upon his duties take an oath to faithfully and impartially perform all his duties as such clerk, and to account for and turn over to his successor all accounts, books and other property of the township coming into his hands, as such clerk.

§ 16. FEES.] The township school board shall pay the clerk and treasurer each a reasonable compensation for his services, which compensation shall be fixed at their first meeting, and shall not be less than fifteen nor more than twenty-five dollars per annum.

§ 17. WHAT CONSTITUTES A MISDEMEANOR.] Any school treasurer who fails to account according to law for all the funds and property coming into his hands, or any school officer who misappropriates any school money or property in a manner not amounting to embezzlement, shall be deemed guilty of a misdemeanor.

§ 18. MISAPPROPRIATION OF REVENUES.] It shall be the duty of any school officer of the Territory, whenever he learns of any misappropriation or unlawful detention, embezzlement or other

criminal misuse of public school revenues or funds by any officer or person, to immediately lay the matter before the district attorney of the proper county, and it shall be the duty of such district attorney to promptly prosecute the parties charged and bring the action in the name of the school corporation for the recovery of such funds or revenues. Should the district attorney, after receiving the information from such officer, neglect to prosecute any such offender for a period of two months, or should he refuse to prosecute, the Attorney General of the Territory shall have power, upon being notified of such neglect or refusal to prosecute, or to direct prosecution in any such action.

§ 19. BIBLE MAY BE READ IN SCHOOL WITHOUT SECTARIAN COMMENT.] No sectarian doctrine shall be taught in any public school; but the bible may be read in school not to exceed ten minutes daily, without sectarian comment: and no pupil shall be required to read it contrary to the wishes of his parent or guardian, or other person having him in charge.

§ 20. COUNTY SUPERINTENDENT.] The qualified voters of the several sub-districts in each organized county of the Territory shall, at the annual school election in June, in each even numbered year, beginning with the year 1888, and at the same time and in the same manner that the directors are chosen, as provided in sections twelve and thirteen of this act, elect one county superintendent of public schools, either male or female, whose term of office shall be two years, beginning with the first day of October, following the election.

§ 21. MANNER OF CONDUCTING ANNUAL ELECTIONS.] At the annual school election provided for in section twelve of this act the polls shall be opened at 2 o'clock in the afternoon and continue open until 5 o'clock of the same day. The judge of election, with the aid of the clerk, shall count the votes cast for director, and the persons receiving the highest number of votes cast shall be declared elected. If the election result in a tie, the clerk of election shall immediately notify in writing the parties having received such tie vote, and a time shall be agreed upon by the parties, within three days after the election, at which the election shall be decided by lot in the presence of the judge and clerk, and a record of the proceedings shall be made in the records of the sub-districts. The judge and clerk of election shall also count the votes cast for treasurer and place the result in a sealed envelope, and deliver the same to the township clerk in person, within three days after the election. Should an election be held for county superintendent of public instruction, the result of such vote shall be placed in a sealed envelope and delivered to the township clerk in person, within three days after the election.

§ 22. TOWNSHIP CLERKS TO ISSUE CERTIFICATES OF ELECTION.] Upon receiving the returns from the various sub-districts of the votes cast for treasurer, the township clerk shall without delay open

them, and after counting the votes, he shall issue a certificate of election to the person receiving the highest number of votes according to the face of the returns. If there be a tie the township clerk shall notify the parties to appear before him at a time specified, and within three days, and the election shall be decided by lot.

§ 23. TOWNSHIP CLERK TO MAKE ABSTRACT OF VOTES.] Upon receiving the returns from the various sub-districts of the votes cast for county superintendent, the township clerk shall immediately make an abstract of the votes as they appear upon the returns, and deliver the same in person, without delay, to the county clerk, who shall immediately issue a certificate of election to the person having the highest number of votes in the county, according to the face of the returns made to him.

§ 24. WHEN COUNTY SUPERINTENDENT SHALL QUALIFY.] The county superintendent shall qualify on or before the first day of October of the year in which he is elected, by taking the proper oath of office and entering into an undertaking in the sum of \$500 with one or more sureties, to be approved by the board of county commissioners. The oath shall be subscribed to upon the back of the undertaking, which shall be filed with the county clerk.

§ 25. REMOVAL FROM OFFICE.] The county superintendent may be removed from office as provided by law.

§ 26. PENALTY FOR VIOLATION OF THIS ACT.] Any judge or clerk of election, township clerk or county clerk who wilfully violates the provisions of this act in relation to elections, or who wilfully makes a false return, shall upon conviction be punished by imprisonment in the Territorial prison for a term of not less than one year nor more than three years.

§ 27. QUALIFICATION OF VOTERS.] In all elections held under the provisions of this act, all persons who are qualified electors under the general laws of our Territory, and all women of twenty-one years of age, and over, having the necessary qualifications as to citizenship and residence required by the general laws, and who have children of school age under their care or control, shall be qualified voters.

§ 28. WHO ELIGIBLE TO OFFICE.] All persons, either male or female, being twenty-one years of age and over, having the necessary qualifications under the general laws as to citizenship and residence, shall be eligible to the office of school director, judge or clerk of election, township clerk or county superintendent of public schools.

§ 29. POWERS OF VOTERS AT SPECIAL SCHOOL MEETING.] Besides the annual election, a special school meeting may be held at any time in any sub-district under call of the director or of five qualified voters, ten days' notice of such meeting and its purpose being given by posting in three public places in the sub-district, one of which notices to be placed upon the door of the school house, said meeting to be presided over by the director, if he be

present, or if he be absent, the qualified voters present may choose a temporary chairman, at which meeting the voters shall have power:

1. To determine what, if any, branches in addition to those required by law for common schools, shall be taught in such school, and the time at which such school shall begin and be taught; *Provided*, That all the tuition fund apportioned to the sub-district shall be expended within the school year for which it is apportioned.

2. To direct such repairs as they may deem necessary in their school house and in its furniture and other belongings, subject to any general rules made by the township board governing such expenditures.

3. Upon a vote of a majority of the electors of any sub-district, to direct the removal of their school house to a more convenient location at the expense of the sub-district, or at their expense to direct the sale of the school house and lands therewith belonging, and erect a new house, and to advise any other subject connected therewith.

4. To advise the director as to their choice of teacher, which advice shall be regarded by the director and township board, but they shall not have power to select a teacher who is not qualified under the law, nor to reduce the wages of a teacher below the proper grade.

§ 30. **CORPORATE NAME.**] Every organized school township is hereby declared a distinct municipal corporation for school purposes, to be known by the proper corporate name of the school township, and by such name shall be capable and have power to contract and be contracted with, to sue and be sued in any court having competent jurisdiction, to take by grant, gift, bequest or devise, and hold and dispose of and convey any real or personal property or estate; and all such property shall be vested in said corporations respectively. This section and the powers in this act granted to such corporations and the school boards thereof shall not be construed to prevent the alteration of the boundaries of any such corporation, for the good of schools or for necessary civil purposes.

§ 31. **FEES OF COUNTY SUPERINTENDENT.**] The county superintendent shall receive three dollars for each day actually employed in the discharge of the duties of his office and the sum of ten cents a mile for each mile actually traveled by him in the necessary discharge of his duties. In addition thereto, every county superintendent, in counties of 2,000 population or less, shall receive not less than \$100 per annum as salary. In counties having over 2,000 and under 4,000 population, he shall receive not less than \$200 salary. In counties having over 4,000 and under 10,000 population, he shall receive not less than \$250 salary. In counties having over 10,000 population, they shall receive not less than \$300 salary, which shall be paid to them quarterly, as the

salaries of county officers are paid. He shall also be allowed a reasonable amount not less than actual cost, for record books, stationery and postage for the necessary use of his office and in his duties. He shall make out in detail his account for services and mileage, stating date and time employed, kind of services rendered and number of miles actually and necessarily traveled in his duties, which account shall be signed and verified by his affidavit, to the effect that the amount and each item thereof are true; and when so verified, the county commissioners shall, at their next session thereafter, audit and allow the same, and the amount thereof shall be paid by warrant, out of the county general fund. The superintendent may, in such account, charge for less than an entire day of service, but only by half or quarter day items. No order for paying such account shall be issued to any superintendent for the last quarter of any year, who shall have neglected to transmit his report to the Territorial Superintendent, as required by law, and who does not show the receipt of that officer for such report, stating that it is satisfactory in matter and form.

§ 32. DUTIES OF COUNTY SUPERINTENDENT.] The county superintendent shall have the general superintendence of the schools in his county except those of independent districts. He shall visit each common school and graded school within his county at least once in each year, and oftener if he shall deem it necessary for the purpose of increasing their usefulness. At each visit he shall examine the condition of the school in all respects, the mental and moral instruction given, the order and government prevailing and the progress of the pupils, the teacher's ability, fitness for the school and aptness to teach; and he shall especially observe the character of the primary instruction and advise proper methods of practice and drill and encourage aptness in teaching this grade. He shall further advise and direct the teacher concerning the government, discipline and instruction of the pupils, and the course of study to be pursued and order of exercises to be observed, and shall adopt and urge such plans as will tend to improve the schools and bring all to the same course of study; and he shall record and may permit the publication of suitable notes of his inspection of each school.

§ 33. SAME.] The county superintendent shall encourage teacher's institutes and associations and shall labor in every practicable way to elevate the standard of teaching, urge the continued employment of successful teachers, encourage the immigration of skilled teachers and prevent by all proper means the employment of those who are incompetent and inefficient teachers, and seek to make the employment of all teachers by officers a responsible public duty for the public advantage, and to be free from favor or affection and sectarian interest. In all controversies arising in the administration of the school law, including differences relating to schools, school funds and school townships, and all appeals from the decisions of school township boards, the opinion of

the county superintendent shall be sought, whence an appeal may be taken to the Territorial Superintendent as provided by law and the rules prescribed by the Territorial Board of Education. He shall at all times carry out and execute the decisions and instructions of the Territorial Superintendent and Territorial Board of Education, and shall constitute the medium between these officers and subordinate school officers and teachers and schools. *Provided*, That nothing in this act shall be so construed as to change or abridge the jurisdiction of any court in cases arising under the school law, nor the right of any person to bring an action in any court in any case arising thereunder.

§ 34. To KEEP RECORDS, ETC.] The county superintendent may provide a suitable office for the transaction of business, when not provided by the board of county commissioners, and they shall audit accounts for all necessary expenditures for the use and furniture of said office. He shall keep a book of record of his official acts, and safely keep all books records and papers belonging to his office, and transmit them to his successor. All books and pamphlets, circulars of information, and other publications by and from the bureau of education of the United States, and all official publications of this Territory, and other public documents and books relating to education, officially received by him, shall be deemed public property, and at least one copy of each thereof shall be kept in his office, and with other public property and records delivered to his successor. He shall prepare for the board of county commissioners, if not previously supplied, a correct sectional map of the county, showing the boundaries and names or numbers of all school townships, and he shall furnish of their respective districts maps each year to the county or township assessor in time to enable them to perform their duties correctly.

§ 35. POWER TO ADMINISTER OATHS.] The county superintendent shall have power to administer oaths of office to all subordinate school officers, and to certify the same, and to witness, and to examine them under oath in case of appeal, of petition, of revoking the certificate of a teacher, and in all controversies and questions arising in the administration of the school laws brought or coming before him for opinion, order or decision, but he shall not receive additional pay for administering such oaths. Such oaths administered by him shall have the same binding force and legal effect as those authorized by chapter twenty of the Political Code, under the same conditions and penalties.

§ 36. PUBLIC EXAMINATIONS.] The county superintendent shall hold public examinations of all persons over the age of eighteen years, offering themselves as candidates for teachers of common schools, at the most suitable place in the county, on the first Tuesday of January, April, June, August and October of each year, notice of which shall be given publicly as possible, at

which times he shall examine them by a series of written or printed questions, according to the rules prescribed by the Territorial Board of Education; and if from the ratio of correct answers compared with the per cent. required by the rules and other evidences disclosed by the examination, including particularly the superintendent's knowledge and information of the candidate's successful experience, if any, the applicant is found to possess a knowledge and understanding, together with aptness to teach and govern, which will enable such applicant to teach in the common schools of the Territory the various branches required by law, said superintendent shall grant to such applicant a certificate of qualification, if he is satisfied the applicant is a person of good moral character.

§ 37. **CERTIFICATE OF QUALIFICATION TO TEACH.**] Such certificates shall be of three regular grades; the first grade for the term of two years, the second grade for eighteen months and the third grade for twelve months, according to the ratio of correct answers of each applicant, and other evidences of qualification appearing from the examination. No certificate shall be issued to any person under eighteen years of age, and no person shall be employed to teach in any of the schools of the Territory who is not the holder of a lawful certificate of qualification. Any contract made in violation of this section shall be void. The certificates issued by a county superintendent shall be valid only within the county where issued. For a certificate of the second and third grade, the applicant is excused from examination upon geometry, algebra, physical geography, bookkeeping, natural philosophy and civil government.

§ 38. **INSTITUTE FUND—HOW CREATED.**] Every applicant for a certificate shall pay one dollar to the county superintendent, which shall be deposited by the superintendent with the county treasurer as an institute fund, and remain subject to the order of the superintendent. The institute fund shall be used to defray the expenses incurred in the conduct of teacher's institutes only; and at the end of each year the county superintendent shall submit a full and accurate statement of the receipts and disbursements of these funds, verified by his oath, to the Territorial Superintendent.

§ 39. **COUNTY SUPERINTENDENT MAY REVOKE CERTIFICATE—WHEN.**] The county superintendent is authorized and required to revoke and annul at any time a certificate granted by him or his predecessor, for any cause which would have authorized or required him to refuse to grant it if known at the time it was granted, and for incompetency, immorality, intemperance, crime against the Territorial law, cruelty, general neglect of the business of the school, or for refusal to attend a teacher's institute after due notice; and the revocation of the certificate shall terminate the employment of such teacher in the school where he or she may be at the time employed, but the teacher must be paid up to the

time of receiving notice of such revocation. The superintendent must immediately notify the clerk of the school corporation where the teacher is employed, and may notify the teacher through the clerk of such revocation, and must enter his action in such case of record in the books of his office.

§ 40. PROCEEDINGS TO REVOKE CERTIFICATES.] In proceedings to revoke a certificate the county superintendent may act upon his personal knowledge, or upon competent evidence obtained from others. In the latter case action shall be taken only after fair hearing, and the teacher must be notified of the charge and given an opportunity to make a defense at some time and place stated in such notice. Upon his own knowledge the superintendent may act immediately without notice. When any certificate is revoked the teacher shall return it to the superintendent; but if the teacher refuse or neglect so to do, the superintendent may issue notice of such revocation by publication in some newspaper printed in the county.

§ 41. WHAT COUNTIES GOVERNED BY THIS ACT.] All counties in this Territory at present organized under the school township act and all which may hereafter organize under the township system for school purposes, shall be governed by this act.

§ 42. WHEN SCHOOL TOWNSHIPS TO ASSUME SAME BOUNDARIES AND NAME AS CIVIL TOWNSHIPS.] In all counties where the civil township government has been fully established any school township hereafter organized shall assume the same boundaries and name as the civil township; and should both be organized at the same time the boundaries and name shall be the same. When organized as school townships they shall be known in law and in all transactions whatever under the proper name and style of each as a school township, as school township of county, Territory of Dakota.

§ 43. WHEN COUNTY COMMISSIONERS TO DIVIDE COUNTY INTO SCHOOL TOWNSHIPS.] In any county hereafter organizing under this law the board of county commissioners shall so divide the county into school townships as will best subserve and promote the permanent interests and welfare of the public school in the whole county, and so that the township, shall have, when settled, sufficient area and population and number of schools to furnish the proper educational advantages to the people. Whenever a settlement having twenty-five or more children of school age is divided by a township line, and the nearest school in the two practically excludes the children therein from convenient school privileges, such settlement shall be created into a sub-district and attached to the township in which the majority of the school population in such sub-district reside. To effect this it shall be the duty of the school boards of the two townships to co-operate, and each board shall do and perform all acts necessary to carry the provision into effect. When such sub-district is cre-

ated it shall form a permanent part of the township to which it is attached, and become subject to the same conditions and law.

§ 44. WHEN SCHOOL TOWNSHIP TO BE KNOWN BY NUMBER GIVEN IT BY COUNTY BOARD.] The school township so formed and bounded, when not previously organized into civil townships, shall be known by the number given to each by the county board until a name is adopted, and at the first township meeting the electors of each school township shall choose by ballot a name for their township, to be substituted in lieu of the number fixed by the county board, which shall be recognized by such board and entered upon their records, after which such township shall be known and designated in law, and in all business, by the name so chosen; and should the electors of any school township fail to choose a name, as provided, the county board shall select one, and so record it, and notify the school township.

§ 45. WHEN COUNTY CLERK TO TRANSMIT CERTAIN PAPERS TO AUDITOR.] The county clerk shall within thirty days after the first school township election, held as herein provided, transmit to the Territorial Auditor a plat of the county, showing the boundaries and name of each school township therein, and shall record a copy of the same, together with all the proceedings of the county board had and done under this act, in a proper book kept for that purpose; but no two townships in the same county shall be given the same name.

§ 46. WHEN DIRECTOR TO ACT AS JUDGE.] At the annual school election provided for herein, the director shall act as judge under his oath of office, and he is hereby authorized to administer the oath to the person chosen as clerk. Should the director not be present, the person elected to serve as judge in his stead shall administer the oath of office to the clerk, and the clerk shall in turn administer the oath to the person selected as judge; and the elections shall be held and conducted in the manner prescribed by the laws regulating general elections, except as in this act provided.

§ 47. FIRST ELECTION ORDERED BY COUNTY COMMISSIONERS.] The first election to organize a school township shall be ordered by the board of county commissioners, and the notices shall be made, signed and posted by some resident of the proposed township, to be elected by the county commissioners; but no school township shall be organized until the county board are satisfied that it has at least eight thousand dollars of taxable property, and not less than eight children of school age residents within it. The county board shall designate the polling places, after which the election shall proceed as hereinbefore provided, except that the returns shall be made for treasurer to the county clerk, who shall issue the certificates of election. All subsequent elections shall be called by the township school board, who shall cause not less than two notices thereof to be posted in each sub-district in the township, one of which shall be posted on the

school house door by the director of the sub-district, and not less than ten days before the election, which notices shall be signed by the clerk, or in his absence by the chairman of the board.

§ 48. WHEN SCHOOL CLERK TO TRANSMIT CERTIFICATES OF ELECTION.] In all elections after the first, in school townships, the school clerk shall, within three days after the canvass of the votes, as hereinbefore provided, or, in case of a director, within three days after receiving the copy of the returns, sign and transmit to each person elected to any office in the school township, a certificate of his election to the office, naming it fully. In the first election the school clerk shall, immediately after he qualifies, certify to the county clerk the name chosen for the township.

§ 49. WHEN VACANCY OCCURS IN OFFICE, HOW FILLED.] When any vacancy occurs in any office of a school township or sub-district, by death, resignation, ceasing to be a resident of a township or sub-division, or otherwise, the fact of such vacancy shall be immediately certified to the county superintendent by the clerk of the school township, and the county superintendent shall immediately appoint, in writing, some qualified person, who shall qualify and serve until the next annual election of the school township, when a successor shall be chosen for the succeeding term. The county superintendent shall at the same time notify in writing the county clerk and the clerk of the school township of every such appointment.

§ 50. WHEN NEW BOND MAY BE REQUIRED OF TOWNSHIP TREASURER.] The school board or the county superintendent may, at any time, require a new and additional bond from the township treasurer, and shall require a new or additional bond whenever the amount of money to come into the hands of such treasurer shall be equal to three-quarters of the penal sum of such bond, or upon the failure, death or removal from the county of any one of the sureties, or for other sufficient reason.

§ 51. WHERE BONDS TO BE FILED.] All such bonds shall be filed with the county clerk, and in case of the breach of any condition thereof the board, through their chairman, and in case of failure or refusal so to do, the county superintendent shall cause an action to be commenced and prosecuted thereon, in the corporate name of the school township, and any money collected shall be paid into the county treasury to be applied to the use of the schools of said township. If the board and county superintendent both fail or refuse to bring such action upon the breach of the bond, then any taxpayer of the township may cause such action to be commenced and prosecuted; and the necessary expense of such action shall be paid, unless otherwise ordered by the court, out of the township treasury.

§ 52. PENALTY FOR WILFULL NEGLECT OF DIRECTOR OR TREASURER TO QUALIFY.] Every person duly elected to the office of director or treasurer of any school township, who shall wilfully neglect or refuse, for the period of one month after his election, to accept

and qualify for such office and serve therein, or who, having entered upon the duties of his office, shall neglect or refuse to perform any duty required of him by the provisions of this act, shall forfeit the sum of \$10 to the school fund of his township, which amount may be recovered from him in a civil action before any justice of the peace in the county, at the suit of any officer or taxpayer of his township, and the office shall be deemed vacant, and it shall be the duty of the county superintendent to immediately fill such vacancy by appointment.

§ 53. PENALTY FOR NEGLECT OF TREASURER TO PAY MONEYS OVER TO SUCCESSOR.] If any person shall refuse or neglect to pay over any money in his hands as treasurer of a school township to his successor in office, such successor must without delay bring action upon the official bond of such treasurer for the recovery of such money.

§ 54. SCHOOL BOARD TO HAVE CHARGE OF PUBLIC SCHOOLS.] The school board of the township shall exercise its corporated powers, and shall have charge and direction of the public schools and their affairs therein, and the control and management of its schools and all school property belonging to it, both real and personal, limited by the provisions of this act, and in the discharge of these duties they shall have power:

1. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence [and] improve them as may be suitable and proper; but they shall erect or purchase no school house upon leased ground.

2. Upon such sites or lots as are now owned by the school townships or sub-districts, and upon others purchased or taken according to law, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances as to them as may seem advisable [and] necessary; and they [may] join with the taxpayers of any sub-district for the erection or improvement of any house, when funds are furnished for this purpose by the sub-district, in addition to those furnished by the township.

3. The member of the township board from each sub-district shall have the care and custody of the school house and school property of his sub-district, subject to any general rules and regulations prescribed by the school board.

4. To organize, locate and establish conveniently such and a sufficient number of schools as are necessary for the education of all the children of school age within the township, and to discontinue or change any of them, according to law.

5. When a teacher has been selected by any sub-district or its director, the chairman and the clerk shall execute the contract with such teacher.

6. The clerk of the board shall draw the order for any teach-

er's wages, and the chairman shall approve the same when presented with a certificate from the director of such sub-district, certifying that the school, or any particular month of the school, has been taught according to contract.

7. To defray the necessary contingent expenses of the schools, of the board, and other expenses for school journals and publications, and for Webster's Unabridged Dictionary for each school, which they are authorized to purchase, but the member from each sub-district shall have direct control of such expenditures, subject [to] equitable rules to be prescribed by the school board, and any sub-district being dissatisfied with the rules thus prescribed may appeal therefrom, as in other cases, and the county superintendent, Territorial Superintendent, or Territorial Board of Education may revise such rules.

8. To have a proper supervision and management of the common or public schools of the township, to make and adopt rules and regulations for their organization, grading, government and efficient instruction, and for the reception of pupils not residents of the township, or the transfer of pupils from one sub-district to another, and generally for their good order, prosperity and utility, subject to the same appeal and revision provided for in the preceding paragraph.

9. To prepare and forward through their clerk the reports required by law, and perform all required duties concerning them.

10. To make such rules as may be necessary and proper for the protection, safe keeping, care and preservation of school-houses, lots, sites, appurtenances, books, and all other school property, subject to appeal and revision as above provided.

11. To purchase, sell, exchange, improve and repair school apparatus, books for needy pupils, furniture and appendages for the school house, and to provide fuel for schools; and if they deem it advisable, to purchase class and text books, and stationery, and other necessary articles required by pupils in their school work, and sell and rent them to the pupils in the schools under their control and management.

12. They shall also have power, as hereinafter provided, to establish, maintain and control high schools, or such graded schools as may be practicable, and provide for the instruction therein of pupils from the primary schools of the township who are sufficiently advanced.

13. In any township where there exists a village or densely settled community in a central location, and outside of which, in the township, the settlement is too sparse to maintain good schools, and such a school is considered by the board and the people of the township as better adapted to their needs, the board may locate and build one school house at some convenient and ac-

cessible point in the township, which shall [have] two or [more] school rooms, and in which a graded school may [be] taught, to which shall be admitted all such pupils in the township as are not otherwise provided with school privileges. When the township is of larger area than a congressional township they may locate and build two or more such school houses, and open and maintain such a graded school in each.

§ 55. HOW SUB-DISTRICTS TO BE NUMBERED.] All sub-districts in a township shall be numbered by the board from one upward, and record shall be made of such numbers, and hereafter the school sub-districts shall be known and referred to in all matters, and in all contracts with teachers, and in the minutes and proceedings of the board, by this number so assigned and recorded.

§ 56. HOW TOWNSHIP TUITION FUND SHALL BE APPORTIONED.] So much of the township tuition fund as will equal \$150 to each sub-district, shall be apportioned equally to the use of the various sub-districts each year. Any balance remaining in the treasury shall be apportioned to the use of the several sub-districts in the township in proportion to the number of children of school age residing in each.

§ 57. SCHOOL BOARD TO GRADE TEACHERS' SALARIES.] It shall be the duty of the township school board at their annual meeting in July of each year to grade the teachers' salaries for their townships in accordance with the grades of certificates, keeping in view the number and grade as nearly as possible, of the various schools of the township, and the funds to be at the command of the board during the year. When the wages for first, second and third grade teachers for the township are established, no teacher shall be paid a less sum per month than is fixed for the grade to which he or she belongs, and no one holding a certificate of a lower grade shall be paid a salary equal to that paid a teacher of higher grade in the same township. In considering the subject of grading the teachers' salaries the township school board shall confer and advise with the county superintendent, and it shall be the duty of the township board to maintain as nearly as practicable, a just [and] equitable scale of teachers' wages, based upon the certificate held by each teacher.

§ 58. SCHOOL BOARD TO LEVY TAX.] The school board of the township shall have power to levy upon all the property subject to taxation in the township a tax for school purposes of all kinds authorized by law, not exceeding a rate of three per cent., or thirty mills on the dollar, in any one year. Such tax shall be levied by resolution of the board prior to the 15th day of August in each year, and no tax shall be levied except by an affirmative vote of a majority of the members of the board, and the resolution to levy the tax and vote thereon shall be entered in the record of the proceedings of the board. The clerk shall immediately thereafter notify in writing the county clerk of the rate of tax so

levied. The notice shall be in substantially the following form:

Office of the Clerk of....School Township,
....County, Dakota Territory.
.....188..

To the County Clerk of....County,
Dakota Territory.

Sir:

You are hereby notified that the school board of.....school township has levied a tax of....mills upon the dollar of valuation of all real and personal property in said school township for school purposes. You will duly enter and extend such tax upon the county tax list for collection upon the taxable property in this school township for the current year."

And should any sub-district in the township levy an additional tax upon property of the sub-district as provided by law, the clerk shall in the same notice inform the county clerk of the rate levied, and the number of the sub-district levying the same. The notice of a tax to pay any judgment against the township shall be in addition to the regular tax, and shall be certified to the county clerk under the same general form, suitably charged. The county clerk shall make out, charge and extend upon the tax lists against each description of real property and against all personal property, and upon all taxable property of the township and sub-district such school taxes as he is so notified have been levied by the township and sub-district in which the property is situated, and taxable in the same manner in which the county and Territorial tax list is prepared, and deliver it to the county treasurer at the same time.

§ 59. SCHOOL TAX TO BE UNIFORM.] All taxes for school purposes shall be uniform within and upon the property in each school township and sub-district, and all funds shall be kept and paid by the school treasurer, and he shall keep one general account for the whole township for the entire receipts and expenditures, and separate itemized accounts as hereinafter provided for each class of receipts and expenses. His books shall at all times show by entries under proper heads all receipts of funds and payments thereof, and enable any person readily to ascertain any balance in any account, or in any fund.

§ 60. SCHOOL BOARD TO PROVIDE BOOKS OF RECORD AND STATIONERY.] The township board shall provide for the treasurer and clerk proper and suitable books of record and account, and such stationery and blanks as may be actually necessary in their duties, and the same shall be paid out of the miscellaneous school fund of the township. The township board shall hold a meeting quarterly, viz: on the second Tuesday of January, April, July and October of each year. They shall each receive one dollar per annum, and no more; and the members of the board shall receive no other compensation for their services during the year. At these

quarterly meetings the board may adjourn from day to day, when special meetings may be held at any time, upon five days' written notice to each member. All meetings of the board shall be public, and a complete record shall be kept by the clerk of all proceedings of the board, and of all the transactions of the school township.

§ 61. HOW COUNTY SCHOOL FUND TO BE KEPT.] All money received from the apportionment of the county superintendent from the county school fund, from the Territory of Dakota, and from the United States, with any sums received from township or sub-district taxed and specified as such, shall be kept separate and apart from all other funds, and shall be known and used as a tuition fund. All money received [from any] source which has been specially provided for the purpose of building school houses shall be kept separate and apart from all other funds, and known and used as a building fund. All funds raised for miscellaneous purposes shall be kept separate and apart from the building and tuition fund, and shall be known and used as the miscellaneous fund. Should there be a balance in the building fund at any time, for which there will be no use, in the unanimous opinion of the board, for the next two years, it shall be lawful for the board to transfer such balance to either the tuition or miscellaneous fund, as they deem proper.

§ 62. TOWNSHIP BOARD TO MAKE SETTLEMENT WITH TREASURER.] The treasurer shall open his accounts anew at the beginning of each school year with each fund, and the balance in each fund shall be brought down and become the first entry in opening the account for each fund for the new year. At the annual meeting of the school board on the second Tuesday of July in each year the township board shall make settlement with the outgoing treasurer, who shall at that meeting make his annual report in triplicate, one copy to be preserved in the treasurer's office, one to be filed with the clerk, and one to be transmitted to the county superintendent; and the board shall cause to be posted or published an itemized statement of the receipts and expenditures of the preceding year. The treasurer's report shall show the following:

RECEIPTS.

- The balance at close of last year.
- The amount received into the miscellaneous fund.
- The amount received into the tuition fund.
- The amount received from sale of bonds.
- The amount received from all other sources.

EXPENDITURES.

- The amount paid for school houses, sites and furniture.
- The amount paid for teachers' wages.
- The amount paid for miscellaneous expenses.
- The amount paid as interest on bonds.
- The amount paid in redemption of bonds.

§ 63. HOW WARRANTS TO BE ISSUED.] The clerk shall draw and sign all warrants for the payment of money for any purpose legally ordered by the board, whether for the regular school purposes of the township, to pay judgments, or other authorized payments. The chairman shall sign all such warrants, and should the township be in debt and unable to pay all its warrants promptly when issued, they shall be paid by the treasurer in the order of their registration. Every warrant shall specify the purpose for which the money is paid, and the person, firm or corporation to whom paid. In case the treasurer has no money applicable to the payment of the warrant he shall endorse it, "Presented this.... and not paid for want of funds," inserting the date of presentation in the blank, and sign the endorsement; and interest at eight per cent. per annum shall accrue upon all warrants substantially so endorsed, from the date of such endorsement; *Provided*, That no warrant shall be issued except for an indebtedness incurred prior to its issue.

§ 64. TREASURER TO PAY WARRANTS.] A memorandum shall be made and kept by the treasurer of all such endorsements, and of the name and postoffice address of the then holder of the warrant, and whenever sufficient money is received in the treasury to pay these warrants, or any one of them, the treasurer shall immediately notify by letter, postage paid, such holder thereof, and interest shall cease on such warrant at the end of seven days after such notice is sent. The treasurer shall reserve the money to pay all such endorsed warrants until presented.

§ 65. COUNTY CLERK TO LEVY TAX.] The county clerk of each county shall, at the time of making the annual assessment and levy of taxes, levy a tax of one dollar on each elector in the county for the support of common schools, and a further tax of two mills on the dollar upon all the taxable property in the county, to be applied to the same purpose, to be collected at the same time and in the same manner as prescribed by law for the collection of taxes, which taxes, when collected, shall be distributed to the several school corporations in the county, in proportion to the number of children resident in the territory of each, from seven to twenty years of age, inclusive.

§ 66. WHEN TREASURER TO FURNISH STATEMENT TO SUPERINTENDENT.] All money received under the preceding section, by tax or from other sources, shall constitute the county general tuition fund; and the county treasurer shall, on the first Mondays in January, April, July and October in each year, furnish the county superintendent of public schools with a statement of all the money in the county treasury belonging to this fund, and shall pay the same upon the order of the said superintendent to the treasurers of the respective public school corporations of the county.

§ 67. COUNTY SUPERINTENDENT TO APPORTION SCHOOL FUND.] The county superintendent shall, as soon as he receives the state-

ment of the county treasurer provided for in the preceding section, apportion such amounts to the several public school corporations within the county in proportion to the number of children residing in each, from seven to twenty years of age, inclusive, as the same shall appear from the last annual reports thereof, and he shall immediately notify, by mail or otherwise, in writing, each school treasurer of the amount of money due his school corporation, and he shall draw his orders upon the county treasurer in favor of the several school treasurers aforesaid for the amount so apportioned to each school corporation, and he shall deliver said orders to said treasurers upon their application, taking his receipt therefor; *Provided*, That new corporations, organized after the annual school census is taken, shall take an enumeration immediately after their organization, of the children of school age within their limits, and in all apportionments made by the county superintendent after the receipt of such enumeration, the newly organized corporation shall receive its proportionate share of the funds distributed.

§ 68. WHEN SCHOOL FUNDS TO BE DELIVERED TO SCHOOL TREASURER.] The county superintendent shall not deliver said order for money so apportioned to any treasurer, unless the bond and oath of such treasurer, duly approved and certified, are on file in the office of the county clerk, or a certificate from the secretary or clerk of the board that the treasurer thereof has duly qualified.

§ 69. COUNTY TREASURER TO COLLECT SCHOOL TAX.] It shall be the duty of the county treasurer to collect the taxes for school purposes at the same time and in the same manner that the county and Territorial taxes are collected, and full power is hereby given to sell the property or any property for school taxes, the same as is now by law provided for other taxes; and if any county treasurer shall refuse to deliver over, on the order of the superintendent, any money in his possession, or shall use or permit to be used for any other purposes than are specified in this act any school money in his possession, he shall, on conviction thereof, be adjudged guilty of a misdemeanor, and punished by a fine not exceeding \$500, or by imprisonment in the county jail not exceeding one year.

§ 70. COUNTY COMMISSIONERS MAY CORRECT TAX LIST.] Whenever an error occurs in any school corporation tax list, the board of county commissioners may, while all taxes are collected by the county treasurer, correct and refund such improper collection of school taxes, the same as for county taxes.

§ 71. PUBLIC SCHOOLS TO RECEIVE THEIR PROPORTION OF TUITION FUND.] The public schools of every city, town or village which may be regulated by special law in the charter thereof, or by other special acts, or by any general act providing boards of education therefor, shall be entitled to receive their proportion of the county general tuition fund; *Provided*, That the clerk or secretary of the board of education thereof shall make report to the county superintendent of the census of children of school age

therein, at the time and in the manner prescribed in this act for other school corporations to report the same.

§ 72. WHEN TREASURER TO REPORT SCHOOL FUND.] The treasurer of each school township shall apply for, and the county treasurer shall pay over to him all of the school money collected for such township, when notified by the county clerk or clerk of the school board in writing, that such school treasurer has qualified and filed his oath and bond as provided by law. But one such notice of qualification is required during the term of each school treasurer, and when a new one is appointed for any reason, or the incumbent has become disqualified, the clerk of the proper school board and the county superintendent shall so inform the county clerk, who shall also inform the county treasurer. Any person who draws school money from the county treasury, who is not at the time a duly qualified treasurer of the school corporation for which he draws the money, and authorized to act as such, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not less than \$25, and not more than double the amount of money so drawn, if beyond \$25, which fine shall, when collected, be paid into the school fund of the township from which the money was unlawfully drawn.

§ 73. HOW SCHOOL FUNDS KEPT.] Every treasurer of a school township who shall loan any portion of the money in his hands belonging to such township, whether for consideration or not, or who shall expend any portion thereof for his own or any other person's private use, is guilty of embezzlement, and shall, upon conviction be punished as provided by law. And no treasurer of a school township shall pay over or deliver the school money in his hands to any officer or person, or to any committee, to be expended by him or them, but all public school funds shall be paid out only by the proper treasurer, as hereinbefore provided.

§ 74. CLERK TO MAKE ENUMERATION OF SCHOOL CHILDREN.] The clerk of every school township, through the directors of the several sub-districts, and every board of education and school corporation, shall make or cause to be made, each year, an enumeration of all the children who are residents within the limits of the corporation on the first day of June, who are from seven to twenty years of age, inclusive, but shall exclude from such enumeration all such persons who are married. In making such enumeration there shall be listed separately in a column, the names of parents, guardians or heads of families having charge of such child or children, but only one in each case—first the father, if living, then the mother, if he is not living, and the same in other cases. Opposite the name, in appropriate columns, he shall enter the names of all the children in charge of the person so named, the males in one column and the females in another column.

§ 75. WHEN SCHOOL CHILDREN TO BE ADMITTED FROM OTHER DISTRICTS.] Whenever one or more children of school age are

situated distant from any school in the township in which they reside, and a school belonging to another township or corporation much nearer and more convenient for the accommodation of such child or children, even though it be situated in another county, it shall be the duty of the school board in the township in which such child or children reside to arrange with such other corporation for the tuition of such child or children for the time during which the inconvenience remains, and it shall be the duty of the corporation in which it is sought to send such pupils, to receive them, unless by so doing such school will be overcrowded and its value to the resident pupils impaired; *Provided*, That an excessive tuition fee shall not be charged, and that an appeal shall lie, as in other cases, in favor of any party aggrieved.

§ 76. DUTY OF DIRECTOR TO VISIT SCHOOLS.] The director of any sub-district shall frequently visit and inspect the school in his sub-district, and shall have power to exclude any refractory pupil therefrom; but the exclusion of any pupil from the school for disorderly conduct shall not extend beyond two months, and may be for any shorter period. A teacher shall have power to suspend a pupil for disorderly conduct not to exceed three days, and if such pupil continues to be refractory, the teacher shall refer the matter to the director.

§ 77. HOW HIGH SCHOOL MAY BE ESTABLISHED.] Whenever a school township has within and belonging to it four or more common schools, and owns and has well furnished, good and sufficient school houses for them, and an assessed valuation of \$200,000, the township school board may submit to the voters belonging to the several sub-districts the question whether a high school shall be established and maintained for the township. The proposition shall be accompanied by a careful estimate of the cost of the building proposed for such school, including furniture therefor and the cost of the site, and the proposed location of such school, with a statement of the method proposed for raising the necessary funds for building and furnishing the school house. The proposition shall be made in writing, and copies of the same, signed by a majority of the members of the school board, shall be posted upon each school house in the township at least thirty days in advance, when the school meetings shall be held to consider the same. The director for each sub-district shall at once, and not less than twenty days before such meeting post notices of the same, stating plainly the time, place and purpose of the meeting, in not less than three of the most public places in the vicinity, and within the sub-district. At the meeting the question shall be presented by the director or some voter in his place, and after due consideration the vote shall be taken before adjournment. The director shall certify the action of the meeting and the number of the affirmative and negative votes to the township school board. If a majority of the voters in the township favor the proposition, the township school board shall select a plan for such building from

the plans submitted by the Territorial Board of Education, and shall not increase the total cost of site, school building and furniture more than ten per cent. beyond the estimate submitted, under any pretense or claim of necessity whatever, unless previously authorized thereto by a majority of the voters of the township.

§ 78. WHEN SCHOOL BOARD TO CONSTRUCT HIGH SCHOOL.] Instead of submitting the proposition for a high school to the several meetings for their consideration and action, a majority of the voters entitled to vote at any such meeting may sign and assent thereto in writing. This assent shall be signed upon and to the copy of the proposition made by the board, which shall contain all the points required in the preceding section. When such assent is duly signed the paper shall be filed with the clerk of the school township, and shall have the same authority and legal effect as an affirmative vote of the school township, provided for in the preceding section, and when the township school board has so received by vote or written assent the authority of a majority of the school voters of the township in favor of a high school they are authorized to proceed with all necessary steps to construct and maintain the same.

§ 79. WHEN TOWNSHIP MAY EMPLOY SUPERINTENDENT.] Any township in which there is a high school established may employ a superintendent of the schools of the township, who shall be principal of the high school, and whose duties besides those of principal shall be generally to supervise the schools of the township and advance their interest in all respects to the best of his ability, acting under any rules adopted by the township board to be approved by the Territorial Board of Education.

§ 80. TWO OR MORE TOWNSHIPS MAY UNITE IN CONSTRUCTION OF A HIGH SCHOOL.] Two or more school townships may unite in the construction and maintenance of a high school such as is provided for in sections eighty and eighty-one, and in the employment of a superintendent as provided for in section eighty-two.

§ 81. WHEN SCHOOL BOARD TO PROVIDE SCHOOL ON PETITION.] Whenever the residents of any portion of a school township having five or more pupils of school age, none of whom reside nearer than two miles from a school building, petition the township board for a school, and furnish a proper room without charge to the township in which the school may be taught, it shall be the duty of the township board to provide such petitioners with a teacher for such school. But whenever the number of resident pupils increases to ten it shall be the duty of the board to establish there a sub-district, upon the petition of the resident voters.

§ 82. DIRECTORS MAY PERMIT USE OF SCHOOL HOUSE FOR OTHER PROPER PURPOSES.] If a majority of the legal voters of any sub-district desire the use of the school house of such sub-district for other purposes than common school, when unoccupied for common school purposes, the director may permit the

people, under careful restrictions, to use the house for any proper purpose which will not interfere with the seating or other furniture or appendages, giving equal rights and privileges to all religious denominations or political parties; but the school house shall be opened at any time for literary or educational purposes. The seats shall not be removed from their places for any purpose or privilege granted by this section.

§ 83. HOW TEACHERS INSTITUTE TO BE FORMED.] At least one Saturday in each month during which the public schools may be in progress shall be devoted in each township to township institutes or model schools and normal instruction and matters relating to methods of teaching, organizing, classifying and governing schools and for the improvement of teachers, and two Saturdays may be so used at the discretion of the township board. Such institute shall be presided over by a teacher, one of the board or other person designated by the school board. Each teacher shall attend the full session of each institute in the township, contemplated herein, and participate in the duties and exercises thereof, or forfeit one day's wages for every day's absence therefrom, unless such absence is occasioned by sickness of teacher or others to whom his or her attention is due. When the county superintendent is present he may preside at and conduct such institute, and it is his duty to visit and inspect the schools of a township immediately before his meeting with such institute and then give special attention to the defects and needs of the instruction and government of the schools. The county superintendent may convene the teachers of two or more townships, where the distance is not too great, and require the presence of all the teachers of such townships at such institute as often as once a month during the progress of the schools; but he shall not require such attendance from any teacher when by distance or otherwise it would impose a hardship upon the teacher or cause such teacher to neglect his school.

§ 84. BRANCHES OF EDUCATION TO BE TAUGHT.] In every common school there shall be taught to all pupils of sufficient capacity to properly attend to the same, the following branches of a common English education: orthography, reading, writing, geography, arithmetic, English grammar, United States history, and physiology and hygiene, with special reference to the nature and the effects of alcoholic drinks and other narcotics upon the human system; and no second or third grade certificate shall be granted unless the applicant be found proficient in and fully qualified to teach the above enumerated branches. In addition to the above, applicants for a first grade certificate shall pass a satisfactory examination in civil government, book-keeping, theory and practice of teaching, elements of natural philosophy, elementary geometry and algebra, and physical geography; and no first grade certificate shall be issued to any person who is under twenty years of age and who has not taught successfully twelve school months.

The percentage required to pass any branch shall be prescribed by the Territorial Board of Education.

§ 85. HOW TEACHERS EMPLOYED.] Teachers shall be employed only upon a written contract signed by the teacher and the chairman and clerk of the township school board, which shall specify the date at or about which the school shall begin, the length of time it shall continue, the wages per month, and the time of payment thereof; and said contract shall be so signed in duplicate, and one copy filed in the office of the clerk, and the other retained by the teacher. The following conditions shall be understood as forming a part of every contract, whether expressed therein or not:

1. The teacher shall not hold school upon any legal holiday, but such days shall count as part of the term, and the teachers be paid therefor, but such pay shall not be drawn for any Saturday or Sunday.

2. School shall be adjourned during any time that an institute is held in the county, to attend which the teachers have been notified by the county superintendent, and the teacher shall draw pay for and have counted as a part of the term one-half day for every day's actual attendance upon the institute as certified by the conductor of the institute or county superintendent.

3. Teachers shall receive into their schools pupils transferred thereto by order of the township board, or admitted by its authority.

4. The teacher is to send the notice, keep the proper entries in the register, and make the reports as and when required by law; and the school corporation shall promptly furnish, without cost to the teacher, blank forms for such reports, and furnish for use proper registers, prepared so that the required facts and statistics can be kept in an orderly manner, and the township clerk shall attend to the distribution of such registers and blanks.

§ 86. TEACHERS TO REPORT TO SUPERINTENDENT.] Every teacher of a common school under this law shall at the expiration of each term immediately make out full duplicate reports, and deliver one copy thereof to the school clerk and one to the county superintendent. Said reports shall show the names, ages and sex of all pupils admitted during such term, the branches taught, the studies pursued by each pupil, the text books used, the number of days taught, the number of days each pupil was present, the average daily attendance, the dates when school began and ended, the number of visits made to the school by the county superintendent, the salary per month, and information concerning the school and property, with any other matters required in the blanks furnished by the educational department, and until such report shall have been so filed with the clerk the teacher shall not receive more than ninety per cent of his wages.

§ 87. NOTICE OF OPENING AND CLOSING OF SCHOOL.] Every

teacher, on commencing a term of school, shall give written notice to the county superintendent of the time and place of beginning such school, and the probable time when it will end.

§ 88 ALL REPORTS AND PROCEEDINGS TO BE KEPT IN ENGLISH LANGUAGE.] All reports and records of school officers and proceedings of all school meetings shall be kept in the English language, and if any money belonging to any school township shall be expended in supporting a school in which the English language shall not be taught exclusively the county superintendent or any tax payer of the school corporation, may in a civil action, in the name of the corporation, recover for the corporation all such money from the officer or officers so expending it, or ordering its expenditure.

§ 89 PENALTY FOR WILFULLY DISTURBING PUBLIC SCHOOL.] Every person, whether a pupil or not; who shall wilfully molest or disturb a public school when in session, or who shall wilfully interfere with and interrupt the proper order or management of a public school, by acts of violence, boisterous conduct or threatening language, so as to prevent the teacher or any pupil from performing his duty, or who in the presence of the school or school children upbraid, insult or threaten the teacher, shall upon conviction thereof, be punished by a fine not exceeding \$25 or by punishment in the county jail not more than ten days, or both such fine and imprisonment.

§ 90 SCHOOL BOARD MAY TAKE REAL PROPERTY FOR SCHOOL PURPOSES.] The school board of any school township may take in the corporate name thereof, any real property, not exceeding two acres in area, chosen as a site for a school house by the township school board; and may hold and use such tract for school purposes only. Should the owner of such real property refuse or neglect to grant and convey such site, the county clerk of the county in which the real property is situated shall, upon the written application of the township school board, after serving ten days notice to the opposite party, appoint three resident free holders of the county as appraisers, who shall be sworn to faithfully [perform] their duties. Said appraisers shall assess the damages the owner of such tract will sustain by taking the same for school purposes and said appraisers shall directly file their report with the county clerk, giving an exact description of the tract taken for the site and the amount of damages so assessed. If the owner of said property be a non-resident, or absent, or cannot be found, said notice shall be served by publication in some newspaper published in the county not less than once each week for four successive weeks. Such notice shall contain a description of the tract to be taken, the name of the owner thereof, the purpose for which it is to be taken and the date when the appraisers hereinbefore mentioned will be appointed. If said school board deposit in the name of the school township, with the county treasurer to the credit of the owner of the tract taken, the amount of money so assessed as damages, they

shall then be authorized to permanently use said premises for school purposes; *Provided*, That no site except in a village, town or city, shall be thus taken within forty rods of any residence, the owner of which objects to its being placed nearer and in no case in any orchard, garden or public park. If the site so selected be not used for the purpose for which it is taken for two successive years it shall revert to the original owner or his assigns upon repayment of the sum originally paid by the corporation, together with a reasonable consideration for the improvements.

§ 91 COUNTY SUPERINTENDENT TO MAKE REPORT.] The county superintendent of each county shall make full and complete report to the superintendent of public instruction on or before the first day of September in each year, of the school statistics of the preceding school year, showing for each school corporation in the county the following facts and statistics:

The number, name or other proper designation of the school corporation.

The number of graded schools.

The number of ungraded schools.

The average number of days school was taught.

The number of teachers employed, males, females and total.

The average compensation paid teachers per month, males and females separately.

The number of persons resident, between the ages of seven and twenty years (excluding those married) showing males, and females and total.

The number enrolled in the schools.

The per cent. of attendance of those enrolled.

The average cost of tuition per month for each pupil.

The number of school houses erected during the year.

The number of school houses for graded and for ungraded schools.

The total value of school houses, including sites and furniture.

The total sittings in school houses.

The total par amount of bonds outstanding.

The average rate of interest paid thereon.

The total amount paid to and due the officers of school corporations for services during the year.

The total amount paid the county superintendent for services, including expenses, during the year.

The following financial report:

RECEIPTS.

1. The total amount on hand at beginning of the year.
2. The amount received into the.. fund from all sources.
3. The amount received by apportionment.
4. The amount received from sale of bonds.
5. The amount received from all other sources.

The total school receipts.

EXPENDITURES.

1. The amount paid for school houses, sites, furniture and appendages.
2. The amount paid for teacher's wages.
3. The amount paid for all incidental expenses.
4. The amount paid as interest on bonds.
5. The amount paid upon other debts and liabilities not included in any other items.
6. The balance on hand at end of year.

The total expenditures, not including balance on hand.

He shall also report all private schools, academies and colleges within his county, in a table separate from all public schools, showing the name of the school or institution, if incorporated, and if not, by brief description, the name of the principal, officer, or president in charge, the number of teachers employed, the number of pupils in attendance during the year, the value of the buildings and permanent property, the value of the endowment.

§ 92. CLERK OF SCHOOL TOWNSHIP TO REPORT.] Within ten days after the settlement with the treasurer in July, the clerk of each school township shall make, sign and transmit or deliver to the county superintendent, a report in writing, covering the preceding school year, and including all the facts and statistics of the school township required by the preceding section to be included in the county superintendent's report, and in the same order therein required, except any item therein peculiar to the county and not belonging to the township. He shall also report the branches studied in the high schools, graded and common schools separately, the names and addresses of the township school officers, and all other facts and statistics which the county superintendent may require for his report to the Territorial Superintendent.

§ 93 TREASURER'S ACCOUNT.] Every county treasurer shall keep a regular account with each school corporation, in which he shall charge himself with all taxes collected by levy of the township board, or any sub-district within the township, and all sums apportioned to the township by the county superintendent or other authority, and all other sums received for the school township; and he shall credit himself with all payments made to the treasurer of the school township, distinguishing between the items paid by apportionment, those from local taxes and those from other sources. To these credits, to balance the account, he shall add all items for legal fees, for collection and other duties. These accounts shall be kept for each school year separately, beginning July 1st and ending June 30th of the following year. At the first meeting of the board of county commissioners after the close of a school year he shall submit an abstract of these several accounts.

§ 94 DUTIES OF COUNTY SUPERINTENDENT.] If any clerk or treasurer shall fail to make his report according to the provisions

of this act, the county superintendent is authorized to go and procure the same and to examine the records, files and accounts of each officer for the purpose of obtaining the desired information. It shall be the duty of the county superintendent to instruct clerks and treasurers in the best manner of keeping their accounts, when such instruction is necessary.

§ 95. SCHOOL OFFICERS AND CONTRACTS.] No school officer shall personally engage in the purchase or sale of any school bonds, warrants or school supplies; nor shall any such officer be personally interested in any contract in which the board is a party.

§ 96. INSPECTION OF SCHOOL RECORDS.] All reports, books, records, vouchers, contracts and papers relating to school business in a township, in the office of clerk or treasurer, shall be at all times open to the inspection of any director, who shall advise and aid towards securing correct records and accounts and legal reports; and they shall likewise be open to the inspection of the territorial and county superintendents, and any particular paper or record shall be exhibited at reasonable hours to any voter or taxpayer.

§ 97. REPORT OF TERRITORIAL BOARD.] Two thousand and five hundred copies of the report of the Territorial Board of Education shall be printed biennially, in the month of December preceding the session of the Legislature. Ten copies shall be furnished to each of the members of the legislature, one copy to each county superintendent of the Territory, two to each Territorial officer, one to each State and Territorial superintendent, twenty copies shall be filed in the office of the board, and ten in the Territorial Library. The balance shall be distributed among the various college, university and other libraries of the United States.

§ 98. SCHOOL MONTH AND WEEK DEFINED.] A school month shall consist of twenty school days, a school week of five school days, and no Saturdays shall be counted as school days.

§ 99. PENALTY FOR FALSE REPORT.] Every clerk or treasurer of a school township or district who shall wilfully sign or transmit a false report to the county superintendent, or wilfully sign, issue or publish a false statement of facts, purporting or appearing to be based upon books, accounts or records, or of the affairs, resources and credit of the school township, shall upon conviction be punished by a fine of not exceeding fifty dollars, or by imprisonment not exceeding fifteen days in the county jail.

§ 100. PENALTY FOR REFUSAL TO DELIVER BOOKS AND PAPERS.] Every clerk or treasurer of a school township or district who shall wilfully neglect or refuse to deliver to his successor in office all records, books, papers, accounts, money and all other property belonging thereto and to the township, shall upon conviction be fined not less than five dollars nor more than fifty dollars, and the successor shall prosecute without delay upon the official bond of such officer for the recovery of all such money.

§ 101. JUDGMENT AGAINST CORPORATION, HOW PAID.] Whenever any final judgment shall be obtained against any school corporation, the board thereof shall levy a tax upon the taxable property in the corporation for the payment thereof. Such tax shall be collected as other school taxes, but no execution shall issue against any school corporation. Such tax or taxes shall not be greater than two per cent. in any one year, and any surplus in the treasury of the school corporation may be appropriated to the payment of a judgment. If the school board shall fail or refuse to levy such tax the judgment creditor may apply to the board of county commissioners, who shall cause such tax to be levied upon the property of the school township. When collected it shall be paid over by the county treasurer to the judgment creditor, whose receipt therefor shall be delivered the same as money to the treasurer of the school corporation by the county treasurer. Such levy may be repeated until the judgment is paid.

§ 102. JURISDICTION OF JUSTICES.] Justices of the peace shall have jurisdiction in all cases in which a school corporation is a party interested, when the amount claimed by the plaintiff does not exceed one hundred dollars, and the parties shall have a right to appeal as in other cases.

§ 103. FINES, HOW COLLECTED.] All fines and penalties not otherwise provided for in this act shall be collected by action in any court of competent jurisdiction.

§ 104 COMPULSORY EDUCATION.] Every parent, guardian or other person having in charge any child or children between the ages of ten and fourteen years is required to send such child or children to a public school at least twelve weeks in each school year, six weeks of which shall be consecutive, unless such child or children be excused from such attendance by the director, by reason of bodily or mental infirmity such as to prevent attendance at school or application to study, or that such child or children be taught an equal time in some private school, or regularly at home in such branches as are ordinarily taught children of that age in public schools or has already acquired proficiency in such branches, or that no public school is taught for the time required, and within two miles by the nearest traveled road of the home of such person.

§ 105 COMPLAINT BY DIRECTOR.] The director of the sub-district shall ascertain if there are any such children deprived of school privileges while an accessible school is taught, and he shall notify the parent, guardian or other person having them in charge, and direct that they be sent to school as herein required. If they fail to send such child or children to school as required in the preceding section, he shall make complaint before some justice of the peace of the failure, and every such person shall, upon conviction thereof, be fined not less than ten nor more than twenty-five dollars. If the director fail to make such complaint any citizen may, after having served notice of his intention to do

so two weeks previously upon such parent, guardian or other person, and the director shall be subject to the same penalty for his neglect as that provided for the parent, guardian or other person having in charge such child.

§ 106. DESCRIPTION OF TAXABLE PROPERTY.] Every township assessor, or when the townships are not organized for civil township government, then the county assessor, shall on or before the first day of July, in each year, furnish to the clerk of each school corporation a statement of the total assessed valuation of all the property in such corporation subject to taxation; and whenever any sub-district shall make a levy upon the taxable property within its limits, for school purposes, it shall be the duty of the director thereof to furnish the township clerk with a description of the taxable property within such sub-district; and the director shall, for this purpose, have full access to the books of the county or township assessor, as the case may be, in preparing such description.

§ 107. APPROPRIATION FOR INSTITUTE FUND.] There is hereby appropriated out of any funds in the Territorial Treasury not otherwise appropriated the sum of fifty dollars each year to each organized county in the Territory in which there are ten or more resident teachers, which shall be designated as an institute fund, and which shall be used exclusively in employing persons of learning, ability and experience as conductors of teachers' institutes. The Territorial Board of Education shall appoint the times, places, and duration of these institutes, as, in their judgment, the needs of the various parts of the Territory demand; *Provided*, That no county shall receive more than five dollars from the apportionment for each day its institute is in session.

§ 108. EXTENSION OF INSTITUTE.] The money assigned for any particular institute may be added to any fund furnished for the purpose by any county, and the institute extended so long as the entire fund will allow. If a sufficient county fund be not otherwise provided, the board of county commissioners may appropriate not more than fifty dollars in any county each year in aid of institutes. The Territorial Board of Education may require a statement of the amount of funds a county has on hand for this purpose at any time, and the Territorial funds herein provided for shall be subject to the order of the Territorial Board.

§ 109. INSTITUTE CONDUCTORS.] The Territorial Superintendent acting under the directions of the Territorial Board shall employ or designate every conductor for an institute aided by Territorial funds, and shall be paid to any conductor of an institute not previously appointed or employed as herein provided. The money hereby appropriated from the Territorial Treasury for an institute fund shall be paid to the persons to whom it is due, by warrant of the Territorial Auditor upon the Territorial Treasurer, which shall be issued upon the presentation of an account in due form, receipted by the person to whom due, and approved by the

board of education. All the incidental expenses of such institutes shall be paid out of the county institute funds.

§ 110. WHEN SCHOOL OFFICE BECOMES VACANT.] Any office of a school corporation shall become vacant by the resignation of the incumbent thereof, but such resignation shall not take effect until a successor has qualified according to law. The resignation shall be addressed to the county superintendent, who shall immediately appoint a successor, and notify the county clerk thereof in writing.

§ 111. SCHOOL TOWNSHIP LIBRARY.] The school board of any school township shall have power, by a majority of the schools and the voters thereof, to purchase and keep for the use of the inhabitants of the school township a circulating library of the value of not more than five hundred dollars, to be selected by the school board from any list of books furnished or approved by the Territorial Board of Education.

§ 112. SCHOOL LIBRARY, HOW SELECTED.] The Superintendent of Public Instruction shall, upon any application of any county superintendent, furnish such list to him, which shall then be the list for such county, from which any board may so select and purchase; and additional lists may from time to time be so furnished or approved by selection, and no books shall be purchased for any library except from such lists. The books so listed shall include publications from not less than four different publishing houses or firms, independent of each other, and shall be, as far as practicable, accompanied by the lowest prices that can be secured thereon, with terms and other items of value to the purchasers. The board may at any time accept donations of books for the library, but shall exclude from the library all books unsuited to the cultivation of good character and good morals and manners; and no sectarian publications, devoted to discussion of sectarian differences and creeds, or partisan political pamphlets and books, shall be admitted to the library.

§ 113. CARE OF AND RULES OF LIBRARY.] The township school board shall have the care and custody of the library, and shall make rules to govern the circulation and care of the books while in the hands of the pupil, and shall prescribe and collect penalties for the injury done to any book by the act, negligence or permission of the person who draws the same, or while in his possession, may pay any person suited thereto, including one of their own number, not more than twenty-five dollars a year for such services as librarian. No book shall be loaned for a longer period than two weeks at any time to one person, and never to any person not a resident of the township. The library shall be open at least once each week, for not less than three hours, for the accommodation of its patrons.

§ 114. TOWNSHIP MAY EXCHANGE LIBRARY.] Any township may at any time exchange any part or all of its library with any other township, or other library or person, so far as different books may be so obtained, for equal values of the books exchanged, and

shall, under proper rules, permit teachers to take books from the library to their schools for use in illustrating any subject and for instructions.

§ 115 ELECTION AND ARBITRATION.] It shall be lawful for any county now governed by the school district system to adopt the provisions of this act by a majority vote of the qualified electors thereof. In such case the county commissioners shall issue the call for the election upon the petition of five hundred voters. Should the question be carried at the election, then the commissioners, aided by the county superintendent, shall divide the county into school townships, including as many school districts in a township as in their judgment will best serve the ends of justice, but no greater area shall be included in one school township than fifty square miles, and no school district shall have severed from it in such consolidation more than one third of its area or assessed valuation. An equalization of property, including debts and credits, shall be affected by an arbitration. Each district board included within any township shall select one member of the board of arbitration and the county superintendent shall call the arbitrators so selected together and shall preside at the arbitration, but shall have no vote except in case of a tie, when he shall cast the deciding vote. Any equalization effected by such arbitration shall have the same effect in law as on express contract. Any school township thus formed shall be liable for all the debts charged to it by the arbitration, and shall become the legal representative of the districts for all sums due such districts and credited to the township of the arbitration. All townships so formed shall be named by the county commissioners when the people fail to make a choice.

§ 116 CERTAIN SETTLEMENTS LEGALIZED.] All settlements heretofore made by arbitration or agreement by the school districts of any county in forming into school townships under chapter forty-four of the school laws of 1883, are hereby legalized and all bonds, warrants and certificates of indebtedness of whatever kind issued by the various districts and townships in effecting such settlements are hereby made of full force and effect. In all counties in which the township act of 1883 has been adopted in lieu of the district act and in which the aforesaid differences remain unsettled, the school officers representing the various townships in the county are authorized and it is hereby made their duty to adjust the same by agreement or arbitration, and to issue such bonds, warrants, or certificates of indebtedness in effecting such settlements as to them may seem equitable and just; and all such bonds, warrants or certificates of indebtedness shall in law have full force and effect; *Provided*, That the county commissioners are authorized to pay to any officer upon whom there shall devolve any special duties in consequence of such settlement, a reasonable compensation for his services.

§ 117 TOWNSHIP SCHOOL BOARD TO ASSUME MANAGEMENT.] Im-

mediately upon the organization of the school township as herein-before provided, the township school board shall assume the management and control of the public schools and the school property therein, and the officers of the several districts shall turn over to the township school board all moneys, books, papers, accounts, files, school property and other property of the districts, and it shall all vest in the township as a school corporation for the use of the schools therein.

§ 118. WORDS, HOW CONSTRUED.] Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it be otherwise expressed in the section or law giving the authority; and when a decision or direction is made by a majority of such officers or persons, it is the duty of the one to whom the execution belongs by law to execute the same in all respects as if he had favored the particular decision or direction, as if it were authorized unanimously.

§ 119. WHEN THIS ACT SHALL TAKE EFFECT.] This act shall take effect in all new counties hereafter organized. Whenever a new county is organized, the county board of commissioners shall, at a convenient and suitable time, divide their county into school townships and do all things necessary for carrying this act into effect.

PUBLIC SCHOOLS IN CITIES, TOWNS AND VILLAGES.

§ 120. CITIES GOVERNED BY PROVISIONS OF THIS ACT.] All cities hereafter organizing under the general act to provide for the incorporation of cities shall be governed by the provisions of this act; *Provided*, That any city, town or village, now organized under a general or special act, either for civil government or for educational purposes, may at any time adopt the provisions of this act by a majority vote of the electors; *Further*, that any town or village having a population of 250 inhabitants or over, within a radius of one mile from the center, and not organized for civil government nor under an independent school district act, may adopt the provisions of this act. In such case the county superintendent shall, upon petition of a majority of the legal voters within the proposed district, call the first election thereof, by posting notices in not less than three of the most public places within it; which notice shall contain a full description of the boundaries of said proposed districts besides the time and place of holding the election, and the names and number of offices to be filled.

§ 121. FREE COMMON SCHOOLS.] Each corporation organized under this act shall establish and maintain a system of free common schools which shall be kept open not less than six nor more than ten months in any one year and shall be free to all children of legal school age residing within such corporation.

§ 122. ADJACENT TERRITORY.] Territory outside the limits of any organized city town or village, but adjacent thereto, may be attached to such city, town or village for school purposes, upon application to the board of education of such city by a majority of the electors of such adjacent territory; and upon such application being made to the board of education, they shall, if they deem it proper, and to the best interests of the schools of said corporation and the territory seeking to be attached, issue an order attaching such territory to such corporation for school purposes, and to enter the same upon their journal; and such territory shall, from the date of such order, be and compose a part of such corporation for school purposes only, and the taxable property of such adjacent territory shall be subject to taxation, and shall bear its full proportion of all expenses incurred in the erection of school buildings and in maintaining the schools of such corporation. Whenever the territory so attached shall have attained a population equal to that of any one ward of such corporation, or whenever the taxable property of such attached territory shall equal that of any one ward, such attached territory shall be entitled to elect as many members of the board of education as the population or taxable property is entitled to within the corporate limits. The members from such attached territory shall be elected by the qualified electors of such territory at the same time that other members of the board are elected, at an election to be held at such place as the board of education may designate; *Provided*, That until such outlying territory shall have attained a population or acquired taxable property equal to that of any one ward, it shall be attached for voting purposes to the ward or wards to which it lies adjacent, in proportion to the extent of its boundary bordering upon the same, as nearly as practicable.

§ 123. BODY CORPORATE.] The public schools of each organization effected in pursuance of this act shall be a body corporate, and shall possess the usual powers of a corporation for public purposes, by the name and style of "the board of education of the city, town or village, as the case may be, of of the Territory of Dakota;" and in that name may sue or be sued, and be capable of contracting and being contracted with, of holding and conveying such real and personal estate as it may come into possession of, by will or otherwise, or as is authorized to be purchased by the provisions of this act.

§ 124. CONVEYANCE OF PROPERTY.] Any such corporation is hereby authorized and required, upon the request of the board of education, to convey to said board of education all property within the limits of any such corporation heretofore purchased by it for school purposes, and now held and used for such purposes, the title to which is vested in any such civil corporation.

§ 125. HOW EXECUTED.] All conveyances for the property mentioned in the preceding section shall be signed by the mayor

and attested by the clerk of said civil corporation, and shall have the seal of the corporation affixed thereto, and be acknowledged by the mayor in the same manner as other conveyances of real estate.

§ 126. **BOARD OF EDUCATION.**] When any city or town is divided into wards, at each annual election there shall be a board of education consisting of as many members from each ward as there are members of the council, who shall be elected by the qualified voters thereof, one of whom shall be elected annually, and shall hold his office for the term of two years, and until his successor is elected and qualified; *Provided*, That no member of the board of education shall be a member of the council, nor shall any member of the council be a member of the board of education; *Provided, further*, That in all corporations not organized as cities, and in all cities and towns not divided into wards, there shall be elected as many members of the board of education as there are members of the council or board of trustees of any such corporation when organized as such, to be elected at the same times and places, and for like terms; but no member of the board of education shall be a trustee of such town or village, nor shall any trustee be a member of the board of education; and in all cases where there is no organization for civil government there shall be three members of the board, one of whom shall be elected annually.

§ 127. **VACANCY.**] The board of education shall have power to fill any vacancy which may occur in their body; *Provided*, That any vacancy occurring more than ten days previous to the annual election, and having an unexpired term of one year, shall be filled at the first annual election thereafter; and the ballots and returns of election shall be designated as follows: "To fill unexpired term."

§ 128. **POWERS.**] The board of education shall have power to elect their own officers, except the treasurer; to make their own rules and regulations, subject to the provisions of this article; to organize and maintain a system of graded schools; to establish a high school whenever in their opinion the educational interests of the corporation demand the same; and to exercise the sole control over the schools and school property of the corporation.

§ 129. **ORGANIZATION.**] The board of education at its regular meeting in May of each year, shall organize by the election of a president and vice-president from among its own members, each of whom shall serve for the term of one year, or until their successors are elected and qualified; they shall also elect a clerk who shall hold his office during the pleasure of the board, and who shall receive such compensation for his services as the board may allow.

§ 130. **PRESIDENT.**] It shall be the duty of the president to preside at all meetings of the board of education, to appoint all committees whose appointment is not otherwise provided for, and

to sign all warrants ordered by the board of education to be drawn upon the treasurer for school moneys.

§ 131. VICE-PRESIDENT.] It shall be the duty of the vice-president to perform all the duties of the president in case of his absence or disability.

§ 132. CLERK.] It shall be the duty of the clerk to be present at all meetings of the board; to keep an accurate journal of its proceedings; to take charge of its books and documents; to countersign all warrants for school moneys drawn upon the treasurer by order of the board of education; and to perform such other duties as the board of education or its committees may require.

§ 133. BOND OF CLERK.] Before entering upon the discharge of his duties, the clerk of the board of education shall give a bond in a sum to be fixed by the board, not less than five hundred dollars, with good and sufficient sureties, to be approved by the board, conditioned for the faithful performance of the duties of his office.

§ 134. TREASURER.] The treasurer shall prepare and submit in writing a monthly report of the state of the finances of the district; and shall, when required, produce at any meeting of the board, or any committee appointed for the purpose of examining his accounts, all books and papers pertaining to his office; he shall pay moneys only upon a warrant signed by the president, or in his absence by the vice-president, and countersigned by the clerk; and shall execute a bond in such sum as the board may require, with sufficient sureties, to be approved by the board, conditioned for the faithful discharge of his duties as treasurer to such board.

§ 135. SUPERINTENDENT—EXAMINING COMMITTEE—TEACHERS.] The board of education, at such times as they shall deem expedient, shall elect a superintendent of schools, in no case a member of their own body, whose duty it shall be to have a general supervision of the schools of the corporation, subject to the rules and regulations of the board, who shall hold his office during the pleasure of the board, and shall receive such compensation as that body may allow. The board shall also appoint two competent persons, who with the superintendent as chairman thereof, shall be styled the examining committee of the board of education, whose duty it shall be to examine all persons who may apply to them as teachers; and no person except one who holds a diploma from a university or college, or a certificate from the Territorial Board of Education, shall be elected by the board as a teacher, who can not produce a certificate from the examining committee signed by all or a majority of them, and setting forth that such is competent to teach in such department of the public schools as may be stated in the certificate, and is a person of good moral character; and the board may fill any vacancy which may occur in the examining committee.

§ 136 ANNUAL SCHOOL TAX.] The board of education shall, on or before the fifteenth day of August of each year, levy a tax for the support of the school of the corporation for the fiscal year next ensuing, not exceeding in any one year thirty mills on the dollar on all personal, mixed and real property within the district which is taxable according to the laws of the Territory of Dakota, which levy shall be approved by the city council, when there be one; and which levy, when so approved, the clerk of the board shall certify to the county clerk, who is hereby authorized and required to place the same on the tax roll of said county, to be collected by the treasurer of the county as are other taxes, and paid over by him to the treasurer of the board of education, of whom he shall take receipt in duplicate one of which he shall file in his office, and the other he shall forthwith transmit to the clerk of the board of education.

§ 137 TAXABLE PROPERTY.] The taxable property of the whole corporation, including the territory attached for school purposes, shall be subject to taxation. All taxes collected for the benefit of the school shall be paid in money, and shall be placed in the hands of the treasurer, subject to the order of the board of education.

§ 138 MEETINGS OF THE BOARD.] The regular meetings of the board of education shall be upon the first Monday of each month, but special meetings may be held from time to time as circumstances may demand.

§ 139 ANNUAL REPORT.] The board of education, at the close of each school year, or as soon thereafter as practicable, shall make an annual report of the progress, prosperity and condition, financial as well as educational, of all the schools under their charge; a copy of which, from each city shall be sent to the Territorial Board of Education, and from all other corporations to the county superintendent, and said report, or such portion of it as the board of education shall consider of advantage to the public, shall be printed either in a public newspaper or in pamphlet form; *Provided*, That in towns and villages of less than eight hundred inhabitants, such report shall not be printed in pamphlet form.

§ 140 EXPENDITURES—CONTRACTS.] No expenditures involving an amount greater than one hundred dollars shall be made except in accordance with the provisions of a written contract, and no contract involving an expenditure of more than five hundred dollars for the purpose of erecting any public buildings or making any improvements shall be made except upon sealed proposals; and to the lowest responsible bidder.

§ 141 SECTARIAN DOCTRINE.] No sectarian doctrine shall be taught or inculcated in any of the public schools of the corporation; but the holy scriptures, without note or comment, may be used therein.

§ 142. BOND.] Whenever it shall become necessary by the board of education, in order to raise sufficient funds for the purchase of a school site or sites, or to erect a suitable building or buildings thereon, or to fund any bonded indebtedness, it shall be lawful for the board of education of every corporation coming under the provisions of this act to borrow money, for which they are hereby authorized and empowered to issue bonds bearing a rate of interest not exceeding seven per cent. per annum, payable annually or semi-annually, at such place as may be mentioned upon the face of said bonds, which bonds shall be payable in not more than twenty years from their date; and the board of education is hereby authorized and empowered to sell such bonds at not less than ninety-eight cents on the dollar; *Provided*, That no bonds shall be issued until the question shall be submitted to the people, and a majority of the qualified electors who shall vote on the question, at an election called for that purpose, shall have declared by their votes in favor of issuing such bonds.

§ 143. BOND ELECTION.] It shall be the duty of the mayor of each city or town governed by this act, upon the request of the board of education, forthwith to call an election, to be conducted in all respects as are the elections for city or town officers in the same corporations, except that the returns shall be made to the board of education, for the purpose of taking the sense of such district upon the question of issuing such bonds, naming in the proclamation of such election the amount of bonds asked for, and the purpose for which they are to be issued; *Provided*, That where the corporation is not organized for civil government the board of education may call and conduct the election provided for in this section.

§ 144. EXECUTION OF BONDS.] The bonds, the issuance of which is provided for in the foregoing section, shall be signed by the president, attested by the clerk and countersigned by the treasurer of the board of education; and said bonds shall specify the rate of interest and the time when principal and interest shall be paid, and each bond so issued shall be for a sum not less than fifty dollars; but no corporation shall issue bonds in pursuance of this act in any sum greater than three per cent. of its assessed valuation.

§ 145. LEVY FOR INTEREST AND SINKING FUNDS.] The board of education, at the time of its annual levy of taxes for the support of schools, as hereinbefore provided, shall also levy a sufficient amount to pay the interest as the same accrues on all bonds issued under the provisions of this article, and also to create a sinking fund for the redemption of said bonds, which it shall levy and collect in addition to the rate per cent. authorized by the provisions aforesaid for school purposes; and said amount of funds, when paid into the treasury, shall be and remain a specific fund for said purpose only, and shall not be appropriated in any other way except as hereinafter provided.

§ 146. USE OF SINKING FUND.] All moneys raised for the pur-

pose of creating a sinking fund for the final redemption of all bonds issued under this article shall be invested annually by the board of education in bonds of the Territory of Dakota or of the United States, or the board may buy and cancel the bonds of the district whenever such may be purchased at or below par.

§ 147. **INTEREST.**] Whenever the interest coupons of the bonds hereinbefore authorized shall become due, they shall be promptly paid on presentation, by the treasurer, out of money in his hands collected for that purpose, and he shall endorse upon the face of such coupons, in red ink, the word "Paid," and the date of payment, and sign the initials of his name.

§ 148. **SECURITY.**] The school fund and property of such civil corporation and territory attached for school purposes is hereby pledged to the payment of the interest and principal of the bonds mentioned in this article as the same may become due.

§ 149. **BOND REGISTRY.**] It shall be the duty of the clerk of the board of education to register in a book provided for that purpose the bonds issued under this article, and all warrants issued by the board, which said register shall show the number, date and amount of said bonds, and to whom made payable.

§ 150. **OATH OF OFFICE.**] Each member of the board of education and officer provided for in this article shall take and subscribe an oath or affirmation to support the constitution of the United States, the organic act of the Territory of Dakota, and faithfully perform the duties of his office. The oath and bond of the clerk shall be filed with the treasurer. All other oaths and bonds shall be filed with the clerk; but the clerk shall immediately notify the county clerk and county superintendent of the filing of such oaths and bonds.

§ 151. **TREASURER OF BOARD.**] Besides the municipal officers to be elected in any city, town or village, there shall be elected, at the annual municipal election, members of the board of education provided for herein, and a treasurer of the board of education. The members of the board of education shall be elected in all respects as are the members of the common council or board of trustees of the municipal corporation and for like terms of office. Where there is no organization for civil government, the board of education shall consist of three members, one to be elected annually, and each shall hold for a term of three years and until his successor is elected and qualified. A treasurer shall be elected each year, to hold for one year or until his successor is elected and qualified. Any vacancy in the office of treasurer shall be filled by the board of education by appointment; *Provided*, That at the first election of the board of education, in such cases, one shall be elected for one year, one for two years and one for three years. After the first election, one shall be elected annually; *Provided, further*, At the first annual election of any city under the provisions of this act, there shall be two members of the board of education elected from each ward, one of whom shall serve for one

year and one for two years; and one member of the board of education shall be elected from each ward at each annual election thereafter.

SPECIAL INSTRUCTION FOR COMMON SCHOOL TEACHERS AND EXAMINATIONS FOR THE SAME.

§ 152. TERRITORIAL TREASURER.] The Territorial Treasurer shall pay yearly, on the warrant of the Auditor, out of any funds not otherwise appropriated, under the direction of the Territorial Board of Education, the sums designated in the following sections.

§ 153. UNIVERSITIES, COLLEGES AND ACADEMIES.] The said Board of Education shall designate the private universities, colleges and academies in which the instruction shall be given, distributing them as nearly uniformly throughout the Territory as may be, but no institution shall be selected of lower than the academic grade. The instruction provided for herein, shall be given only by teachers of such standing and qualifications as are approved by the Territorial Board.

§ 154. INSTRUCTION AND ADMISSION.] Every institution so designated, and not to exceed ten in all, shall instruct a class of not less than ten and not more than twenty-five scholars, and every scholar admitted to such class shall continue under instruction not less than ten weeks, all of which shall be in one school term. The Board of Education shall prescribe the conditions of admission to the class, the course of instruction, and the rules and regulations under which said instruction shall be given.

§ 155. INSTRUCTION FREE.] Instruction shall be free to all scholars admitted to such class, except in such branches as are not included in the course prescribed by the Board of Education, but to avail themselves of this privilege the scholars must consume in them the length of time required by section 154 of this act.

§ 156 GOVERNING BOARD.] The governing board of each institution designated and in which said instruction is given, shall be paid from the appropriation made by section 152 of this act, at the rate of one dollar for each week's instruction of each scholar, on the certificate of the Territorial Board of Education to be furnished to the Auditor.

§ 157 EXAMINATIONS.] The Territorial Board of Education shall establish in the institutions designated, subject to their visitation, examinations in such branches of study as are taught in the course prescribed, and shall determine the rules and regulations in accordance with which they shall be conducted; said examinations shall be prescribed in such studies, and shall be arranged and conducted in such manner, as in the judgment of the board of education will furnish a suitable preparation for the teacher's work in the common schools, prominent among which shall be methods of teaching and practice; and they shall confer such honorary certificates or diplomas as they may deem expedient

upon those pupils who satisfactorily pass such examinations. The Board of Education is authorized to establish examinations as to attainments in learning of any persons applying for admission to the course of study provided for herein, and to audit and certify to the Territorial Auditor all accounts for the expenses of establishing and conducting such examinations, and all contingent expenses attending the same, and the amounts thereof shall be paid from the appropriation for this purpose made in section 152 of this act.

§ 158 ACTS REPEALED.] All acts and parts of acts in conflict with this act, except those governing cities, towns, villages and independent districts, the act governing counties under the school district system, chapter forty-five of the session laws of 1883 and chapter twenty-four of the session laws of 1881, relating to school house bonds are hereby repealed.

§ 159 This act shall take effect and be in force after its passage and approval.

Approved, March 11, 1887.

ELECTIONS.

CHAPTER 48.

REGISTRATION OF VOTERS REQUIRED IN CITIES OF OVER ONE THOUSAND VOTERS.

AN ACT To Amend Sections 15 and 16, of Chapter 122, of the Laws of 1881, Entitled "An Act for the Registry of Electors, and to Prevent Fraudulent Voting."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COUNTY CLERKS SHALL PROVIDE NECESSARY BLANKS.] That section 15, of chapter 122, of the Laws of 1881, be amended so as to read as follows:

§ 15. The county clerks shall provide to the board of registry of the several precincts within their respective counties the necessary blank registers and blanks, at the expense of their re-

spective counties; *Provided, however,* That the provisions of this act shall only apply to, and be in force, in all villages, towns or cities containing a population of over one thousand voters, as evidenced by the vote cast at the last preceding general election.

§ 2. COUNTIES MAY ADOPT THIS ACT BY VOTE.] That section 16, of chapter 122, of the Laws of 1881, be amended by striking out the word "others" where it occurs in the first line of said section; also, by striking out the words, "provided that the county of Charles Mix be exempted from the provisions of this act."

§ 3. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, February 17, 1887.

CHAPTER 49.

JUDGES OF ELECTION, CREATION OF ELECTION PRECINCTS, ETC.

AN ACT To Amend Section 1, of Chapter 53, of the Session Laws of 1885, Entitled "An Act to Amend Section 3, of Chapter 27, of the Political Code."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1 JUDGES OF ELECTION PRECINCTS—DUTY OF COUNTY COMMISSIONERS.] That section one of chapter fifty-three, of the Session Laws of 1885 be and the same is hereby amended by adding at the end of said section the following words to-wit: "*Provided, further,* That in counties not organized into civil townships, the board of county commissioners shall have power to set off and establish election precincts, in addition to those before established by such board, or to create new election precincts and appoint the place of holding elections therein, when deemed by such board to be advisable."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

FEES.

CHAPTER 50.

REGULATING SALARIES OF REGISTERS OF DEEDS AND COUNTY TREASURERS.

AN ACT Regulating the Salary of Registers of Deeds and County Treasurers.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. SALARY IN PLACE OF FEES.] Registers of deeds and county treasurers shall each receive a salary not exceeding two thousand (2,000) dollars per annum, as provided in this act, to be paid quarterly from the special salary fund by warrant, which shall be liable during the year only to salary warrants, and at the end of the year any surplus shall be covered into the treasury and placed to the credit of the general fund; *Provided*, That neither of said officers shall be required to account for the fees received for making and certifying to abstracts, and the county treasurer shall not be required to account for the fee collected for sending tax receipts to non-residents of the Territory.

§ 2. SALARY FUND—HOW CREATED.] Each officer named in section one (1) of this act shall keep a book, to be provided by the county, and which shall be a part of the public records of his office, in which shall be entered each item of fees for services rendered, and shall within three (3) days after the close of each calendar month, and also at the end of his term of office, file with the county auditor or county clerk a statement, under oath, showing the fees which he has received as such officers [officer] since the date of his last report or the beginning of his term of office, and also within said three (3) days deposit with the county treasurer the total sum of such fees, which sum so deposited shall be placed to the credit of the special salary fund.

§ 3. SALARY NOT TO EXCEED FEES—DEFICIENCY PROVIDED FOR.] In case the fees paid into the county treasury by any officer named in section one (1) of this act, shall not equal his salary of two thousand (2,000) dollars as fixed herein, then and in that case such offices [officer] shall only be entitled to receive a sum equal to the fees paid into the treasury, and provided further, that in case there may be a deficiency in the salary of such officer for any quarter year or fractional quarter year, the deficiency shall

be made up from any excess of fees that may be paid into the county treasury by any such officer for services rendered during the calendar year in which such deficiency occurred.

§ 4. PENALTY FOR FAILURE TO COLLECT FEES.] Any officer named in section one (1) of this act, who shall neglect or omit to charge or collect the fees allowed by law for services rendered, or shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor or county clerk, with the intent to evade the provisions of this act, shall be deemed guilty of a misdemeanor.

§ 5. DEPUTIES AND CLERKS—HOW APPOINTED—TOTAL SALARY NOT TO EXCEED FEES.] If, in the judgment of the board of county commissioners of any county, it shall be deemed necessary for the prompt and accurate dispatch of business in the office of register of deeds or county treasurer that deputies or clerks be employed therein, they shall by resolution fix the number of, or clerks to be employed, and the compensation which they shall receive, which compensation shall be paid monthly from the special salary fund by warrant; *Provided*, That the officer in whose office such deputies or clerks are to be employed shall have the sole power of appointing the same, and of removing them at pleasure; *Provided, further*, That the total amount paid to the register of deeds or county treasurer, for salary and clerk hire, shall not exceed the amount of fees by such officer collected, and in no case to exceed the sum of five thousand (5,000) dollars; *Provided, further*, That any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed any clerk employed under the provisions of this act, shall be deemed guilty of a misdemeanor.

§ 6. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 7. This act shall take effect and be in force from and after the first Monday in January, in the year eighteen hundred and eighty-nine.

Approved, March 11, 1887.

CHAPTER 51.

PROVIDING FOR CERTAIN LEGAL PRINTING.

AN ACT Providing for Certain Legal Printing and Fixing the Compensation Therefor.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. RATES—MEASUREMENT.] That section twenty-two, of chapter thirty-nine, of the Political Code of the Territory of Dakota be, and hereby is, amended to read as follows, to-wit: "In all cases where publication of legal notices of any kind are required or allowed by law, the person or officer desiring such publication, shall be required to pay seventy-five cents per square, of twelve lines of nonpareil type, or its equivalent, for the first insertion, and fifty cents per square, for each subsequent insertion. And in all cases of publication of notices, in connection with sales upon execution, the plaintiff, except in divorce cases, may designate the newspaper published within the county, in which such notice shall be published; that in all legal advertisements, fractional parts of twelve lines, shall be paid for, at the rate of ten cents per line of nonpareil type or its equivalent."

§ 2. DUTIES OF COUNTY COMMISSIONERS.] That section fifty-four, chapter twenty-one, of the Political Code of the Territory of Dakota, be and hereby is amended to read as follows, to-wit: It shall be the duty of the board of county commissioners of the several counties of this Territory to cause to be published in three newspapers printed in their respective counties, or in case there shall not be three newspapers within the county eligible to make such publication, then in as many papers as there shall be so eligible, a full and complete report of all their official proceedings at each regular and special meeting, such proceedings to be so published as soon after any meeting of the commissioners as practicable, and the board of county commissioners shall pay at the rate of twenty-five cents per square of twelve lines of solid brevier type, or its equivalent, to each newspaper designated to publish such proceedings, which shall file or cause to be filed with the county clerk or auditor an affidavit of publication, executed in proper form; *Provided*, That not more than two newspapers in any congressional township shall be so designated, and when there are but two papers in a county, and both are in the same congressional township, the commissioners shall designate but one of such papers; and *Provided further*, That in case there shall be no newspaper published in their respective counties,

then the board of county commissioners shall cause such proceedings to be published in such other newspaper in the Territory as shall be printed nearest to the county-seat of their respective counties, and shall also cause such report to be posted in three public places within their respective counties, one of which places shall be the office of the county clerk."

§ 3 AFFIDAVIT, WHAT IT SHALL CONTAIN.] That the affidavit of publication, of all notices required by law to be published, shall contain a statement, that the full amount of the fee charged for the publishing of the same, inures to the benefit of the publisher, or publishers thereof, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any person whomsoever, that every affidavit of publication shall state in plain terms, the fees charged thereon.

§ 4 ADDITIONAL AFFIDAVIT REQUIRED—FORM.] That there shall be annexed to all affidavits of publication of notices, required by law, an affidavit sworn and subscribed to by the party, or one of the parties, or his, or their authorized agent or attorney, or one of his or their authorized agents or attorneys, that they directed the publication of the annexed notice, that no agreement or understanding for any division of the fees therefor has been made with any person whomsoever, and that no part thereof has been refunded, or rebated by the party or parties publishing said notice, that no affidavit of publication, shall in any case be filed, or recorded, until such additional affidavit shall be so annexed thereto.

§ 5. NOTICE OF ALL ELECTIONS TO BE PUBLISHED.] That section five, chapter twenty-seven, of the Political Code of the Territory of Dakota, be, and hereby is amended, to read as follows, to-wit: "The county clerks, or auditors, of the several counties, shall cause to be published in each of the newspapers designated by the board of county commissioners to publish their official proceedings, for at least four consecutive weeks, next preceeding any general election and at least three consecutive weeks, next preceeding any special election, a notice thereof; said notice to be as nearly as circumstances will admit as follows, to-wit:

Notice is hereby given that on the second Tuesday the.... day of next at the house of in the town, district, or precinct of in the county of an election to [will] be held for Territorial, township, or district officers, (naming the offices to be filled, as the case may be,) which election will be opened at nine o'clock in the morning, and will continue open until four [five] o'clock in the afternoon of the same day. Dated this... day of.... A. D. 188 (as the case may be.) (Signed) A— B—, County Clerk.

That the filing with the county clerk, or auditor of the county, in which said general or special election is held, of an affidavit of publication in proper form, by one of the publishers, or

the foreman or manager of each of said newspapers, shall be received as evidence that such publication has been properly made; *Provided, further,* That in case there shall be no newspaper published in the county, in which such election is to be held, then the county clerk, or auditor shall deliver three copies of such notice to the sheriff, coroner, or other person designated by the board of county commissioners.

Approved, March 11, 1887.

CHAPTER 52.

COMPENSATION OF SHERIFFS IN CERTAIN CASES;

AN ACT To Fix the Compensation of Sheriffs in Certain Cases.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1 MILEAGE IN CERTAIN CASES.] That the sheriffs of all counties in the Territory of Dakota be entitled to receive five cents a mile for each mile necessarily and actually travelled for summoning a grand and petit jury, to be paid by the county, in addition to the compensation now allowed by law; *Provided,* That no additional mileage shall be allowed a sheriff for summoning talesmen, over and above that now fixed by law.

§ 2. All acts and parts of acts conflicting with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 3, 1887.

FIRE DEPARTMENTS.

CHAPTER 53.

FIRE DEPARTMENTS TO RECEIVE PORTION OF TAX ON PREMIUMS PAID BY FIRE INSURANCE COMPANIES.

AN ACT To Appropriate for the Support of Fire Departments of each City, Town or Village in the Territory of Dakota, a Part of the Tax Paid by the Fire Insurance Companies, Upon Premiums, Received in any Such Town, City or Village.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1 DUTY OF CITY, TOWN, OR VILLAGE CLERK.] The clerk of every city, town or village in the Territory of Dakota, having an organized fire department, shall on [or] before the thirty-first day of October in each year, make and file with the Auditor of this Territory his certificate, stating the existence of such department, the date of its organization, the number of steam, hand or other engines, hook and ladder trucks and hose carts in actual use. The number of organized companies, the number of members of each company, and the system of water supply in use, in such department, together with such other facts as the Auditor may require.

§ 2 TERRITORIAL AUDITOR TO FURNISH BLANKS—INSURANCE COMPANIES TO MAKE STATEMENT.] The blanks required by law, to be furnished by the Territorial Auditor to insurance companies, shall contain the names of the cities, towns and villages entitled to benefits under this act, and every insurance company doing business in this Territory, shall include in its annual statement the amount of all premiums received by them, upon policies issued on property, within the corporate limits of such city, town or village during the year ending on the preceding 31st day of December.

§ 3. TAX, HOW PAID—DUTY OF TERRITORIAL AUDITOR AND TREASURER IN RELATION THERETO.] The said Auditor, on the first day of July thereafter, shall issue and deliver to the treasurer in each city, town or village, having an organized fire department entitled to the benefits under this act, his warrant upon the Territorial Treasurer for an amount equal to two per cent. of the premiums re-

ceived upon policies issued on property in any such city, town or village, which warrants shall be numbered consecutively, and shall each specify the date of its issuance, and to whom payable, and such warrants shall be paid by the Territorial Treasurer to the treasurer of any such city, town or village upon presentation thereof, and when so received by said treasurer, the same shall be paid over to said company or companies, in equal proportion, having a membership of at least fifteen members for a period of eight (8) months prior to the date of the certificate of the clerk, as provided in section one (1) of this act, and having the management of at least one steam, hand or other fire engine, hook and ladder truck or hose cart, upon the written order of such company or companies, approved by the city council, trustees or other governing body of such city, town or village.

§ 4. **QUALIFICATION OF FIRE DEPARTMENT.**] No city, town or village shall be entitled to any of the benefits arising from this act unless the fire department shall have been in actual existence eight months prior to the filing of the certificate required by section one (1) of this act; and unless such fire department shall have had for such period as a part of its equipment, at least one steam, hand or other fire engine, or hook and ladder truck, or hose cart, with a membership of at least fifteen persons for said period of eight months.

§ 5. **CERTIFICATE OF ORGANIZATION TO BE FILED.**] If the certificate required by section one (1) of this act is not filed with the Auditor on or before the thirty-first day of October in each year, the city, town or village so failing to file such certificate shall be deemed to have waived and relinquished its right for such year to the appropriation herein provided for.

§ 6. This act shall take effect and be in force from and after its passage.

Approved, February 17, 1887.

FIRE PROTECTION.

CHAPTER 54.

REGULATING MANNER OF INGRESS AND EGRESS OF PUBLIC BUILDINGS, FIRE ESCAPES, ETC.

AN ACT To Lessen the Dangers From Stampedes in Case of Fires in Buildings Used for Public Assemblages.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. DOORS OF PUBLIC BUILDINGS, HOW TO BE CONSTRUCTED.] All doors of ingress and egress in all buildings used for public assemblages of any character in this Territory, including school houses, churches, theatres, public halls, city halls, court houses, factories, hotels and all other buildings wherein numbers of persons are employed, or are in the habit of meeting together for any purpose, shall be so constructed as to open and swing outward, and doorways shall not be less than four feet in width, with proper landings and stairways of at least equal width.

§ 2. WHO SHALL COMPLY WITH THIS ACT.] It shall be the duty of all persons owning or having charge of such buildings, including trustees, boards of directors and boards of education, to comply with the provisions of this act within six months after the same shall take effect; *Provided*, That nothing in this act shall be construed to require a change in the width of existing stairways and doorways, and that this act shall not apply to churches and school houses not within the limits of any incorporated city or village.

§ 3. PENALTY.] Any person or persons failing to comply with the provisions of this act, or who shall build, maintain, or permit to be used, any such building, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor.

§ 4. FIRE ESCAPES.] All factories, public halls, hotels, and all other buildings in which large numbers of people congregate, which are two or more stories in height, shall be provided by the owners thereof with two or more fire escapes, placed within easy access of the occupants of said building.

§ 5. This act shall take effect and be in force on and after the first day of June, 1887.

Approved, March 11, 1887.

FISH.

CHAPTER 55.

TO PROTECT THE PASSAGE OF FISH IN ALL STREAMS.

AN ACT Amending Section 1, of Chapter 60, of the General Laws of the Sixteenth Legislative Assembly.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LAW MADE GENERAL.] That section one, of chapter sixty, of the General Laws passed at the sixteenth Legislative Assembly be amended by striking out the words, "the Sioux, Dakota and Sheyenne rivers," and inserting in lieu thereof the words, "any stream of the Territory of Dakota."

§ 2. AMENDED.] That section one of said chapter be further amended by striking out the words "said rivers," and insert in lieu thereof the words "such stream."

Approved, March 11, 1887.

FREE LIBRARIES.

CHAPTER 56.

FOR THE ESTABLISHMENT OF FREE LIBRARIES IN CITIES, VIL- LAGES AND TOWNSHIPS.

AN ACT For the Establishment of Free Libraries and Reading Rooms in Cities, Villages or Townships in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LIBRARY FUND—HOW PROVIDED.] The common council of every city not exceeding in population fifty thousand (50,000) inhabitants, and each village or township board of every village and township containing over five hundred (500) inhabitants, shall have power to establish and maintain a public library and reading room, and for such purpose may annually levy and cause to be collected as other taxes are collected, a tax not exceeding one (1) mill on each dollar of the taxable property of such city, village or township, to constitute the library fund, which fund shall be kept separate and apart from the other money of the city, village or township by the treasurer thereof, and the same shall be used exclusively for such purpose; *Provided*, That no library shall be so established without first submitting it to a vote, and be approved by a majority of the electors of such city, village or township, who shall vote on such question at any annual or general election at which it may be submitted to vote.

§ 2. BOARD OF DIRECTORS—HOW APPOINTED.] For the government of such library and reading room, there shall be a board of five (5) directors appointed from the citizens of such city, village or township, including both males and females, who shall be appointed by the board of education or school board of such city or village, or where there is no incorporated city or village, then by the board of supervisors of such township; and there shall be one (1) member of such board of education, or school board, or board of supervisors, appointed as one of the directors of such library and reading room. Such directors shall hold their office for two (2) years from the first day of July in the year of their appointment, and until their successors are appointed, but upon their first appointment they shall divide themselves at their first meeting by lot into two (2) classes; two (2) of said board to hold

for one (1) year and the remaining three (3) for two (2) years, and their terms shall expire accordingly; and thereafter there shall be appointed in each year the requisite number to fill the vacancies caused by the expiration of the terms of those going out of office in such year. All vacancies shall be immediately reported to and filled by such board of education, school board or board of supervisors, and if for an unexpired term, for the residue of the term only. No compensation whatever shall be paid or allowed any director in such official capacity.

§ 3. DUTIES AND POWERS OF BOARD.] Said directors shall immediately after their appointment, meet and organize, by electing from their number, a president, secretary, and librarian. They shall make and adopt such by-laws, rules and regulations, relating to the duties of officers, and for the management of the library and reading room, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditures of all moneys collected or contributed for the library fund, and the supervision, care and custody of the library property, rooms or buildings, constructed, leased or set apart for that purpose; and such money shall be drawn from the treasury by the proper officers upon the proper authenticated voucher of the board of directors without being otherwise audited. They may with the approval of the board of education or school board, or board of township supervisors, aforesaid, without which, no lease purchase or contract therefor shall be valid, build, lease or purchase an appropriate building, and purchase a site therefor, not however, employing in such purchase or building, more than half the income in any one (1) year.

§ 4. LIBRARY FREE, UNDER RULES ESTABLISHED BY BOARD.] Every library and reading room, established under this chapter, shall be forever free for the use of the inhabitants of the city, village or township where located, always subject to such reasonable rules and regulations as the board of directors may deem necessary to adopt and publish, to render the use of said library and reading room of the greatest benefit; and they may exclude from the use of said library and reading room any and all persons who shall wilfully violate such rules.

§ 5. BOARD TO MAKE ANNUAL REPORT.] The board of directors shall make an annual report to the said board of education, or school board, or board of supervisors, stating the condition of their trust, the various sums of money received from all sources, and how much money has been expended, and for what purpose, the number of books and periodicals on hand, the number added by purchase or gift during the year, the number lost and loaned out, the character and kind of books contained in library, with such other statistics, information and suggestions as they may deem of general interest.

§ 6. DONATIONS—HOW AND TO WHOM MADE.] All persons de-

sirous of making donations of money, books, personal property or real estate for the benefit of such library shall have the right to vest the same in the board of directors, to be held and controlled by such board when accepted for the use of such library and reading room, and as to such property said board shall be held and considered to be special trustees.

§ 7. CITY COUNCIL OR TRUSTEES TO APPROPRIATE FUNDS—WHEN.] To aid and facilitate the organization of a library in any city, village or township, as in this act provided, where the same is required by the people thereof, and where in any city the sum of four hundred (400) dollars or more shall have been donated and deposited with the city treasurer for that purpose; and to any village or township where the sum of one hundred and fifty (150) dollars or more, shall have been donated and deposited with the village or township treasurer, for the benefit of such library, and also where such amount shall, prior to the passage of this act, have been donated and expended for the purchase of a library existing in any such city, village or township, the city council of such city is hereby authorized, and it shall be its duty, to appropriate two hundred (200) dollars from the general fund of such city, for such library, for which amount a warrant shall be drawn on the city treasurer; and the board of trustees of such village or the board of supervisors of such township are hereby authorized, and it shall be their duty, to appropriate (100) dollars from the general fund of such village or township, for such library, for which amount a warrant shall be drawn on such village or township treasurer; *Provided*, That in the case of any library association now existing, it shall first agree to turn over to the library and reading room thus established, all books, periodicals and other property. The treasurer of such city, village or township, shall accept such warrant and apply the proceeds from the sale of the same, to the library fund, which together with the amount donated, shall be held subject to the order of the board of directors for such library; and the payment of such warrants shall be provided for in the next assessment of taxes in such city, village or township, and such library may be organized without submitting the same to a vote as provided in section one (1) of this act.

§ 8. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

§ 9. This act shall take effect from and after its passage and approval.

Approved, March 11, 1887.

FUGITIVES FROM JUSTICE.

CHAPTER 57.

AN ACT in Relation to the Rendition of Fugitives From Justice.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1 EXTRADITION OF FUGITIVES.] That any person who is arrested within this Territory, by virtue of a warrant, issued by the Governor of this Territory, upon a requisition of the Governor of any other state or territory, as a fugitive from justice under the laws of the United States, shall not be delivered to the agent of such state or territory until notified of the demand made for his surrender, and given twenty-four hours to make demand for counsel, and should such demand be made for the purpose of suing out a writ of habeas corpus, the prisoner shall be forthwith taken to the nearest judge of the district court, and ample time given to sue out such writ, such time to be determined by the said judge of the district court.

§ 2 PENALTY FOR UNLAWFUL DELIVERY OF FUGITIVE.] That any officer, who shall deliver such person to such agent for extradition without first having complied with the provisions of the preceding section, shall be deemed guilty of a misdemeanor.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

GAME.

CHAPTER 58.

PROTECTION OF BIRDS.

AN ACT For the Protection of Game.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REPEALED.] That sections one, two, three, four, five, six, of chapter forty-one of the Political Code entitled, "An Act for the Protection of Birds," and sections three, four and five of chapter sixty-three of the Laws of the Fifteenth General Assembly, entitled "An Act for the Protection of Game in the Territory of Dakota" be repealed, and the following enacted in lieu thereof:

§ 2. UNLAWFUL TO KILL AT CERTAIN TIMES.] It shall be unlawful for any person within this Territory, to shoot or kill any prairie chickens, or pennated grouse, or sharp tailed grouse, or ruffed grouse between the first day of January and the first day of September, or any wild duck, or snipe, or goose, or brant, or plover, or curlew, between the fifteenth day of May and the first day of September, or any song bird at any time.

§ 3. UNLAWFUL TO KILL FOR TRAFFIC.] It shall be unlawful for any person at any time or at any place within this Territory, to shoot or kill for traffic any prairie chicken, wild duck, snipe, goose, brant, plover or curlew, or for any person to shoot or kill during any one day more than twenty-five of either kind of said named birds, or for any one person, firm or corporation to have more than twenty-five of said named birds in his or their possession at any one time unless lawfully received for transportation, or at any time to catch or take, or attempt to catch or take, with any trap, snare or net, any of the birds named in section two of this act, or in any manner wilfully to take or destroy the eggs or nests of any of the birds hereby intended to be protected from destruction, or to buy or sell any of said birds or their eggs.

§ 4. UNLAWFUL TO HAVE IN POSSESSION—WHEN.] It shall be unlawful for any person, firm or corporation to have in possession any of the birds named in section two of this act, during the period when the killing of such birds is prohibited by said section two of this act.

§ 5. UNLAWFUL TO SHIP OUT OF TERRITORY—SHIPMENTS IN TERRITORY RESTRICTED—PENALTY.] It shall be unlawful for any person, company or corporation at any time to ship, take, or carry out of this Territory, any of the birds named in section two of this act, but it shall be lawful for any person to ship to any person within this Territory any game birds named in section two not to exceed one dozen in number in any one day during the period when by this act, the killing of such birds is not prohibited; *Provided*, He shall first make an affidavit before some person authorized to administer oaths, that said birds have not been unlawfully killed, bought, sold or had in possession; are not being shipped for sale or profit; giving the name and postoffice address of the person to whom shipped and the number of birds to be so shipped. A copy of such affidavit endorsed "A true copy of the original," by the person administering the oath, shall be furnished by him to the affiant who shall deliver the same to the railroad agent or common carrier receiving such birds for transportation, and the same shall operate as a release to such carrier or agent from any liability in the shipment or carrying such birds. The original affidavit to be retained by the officer taking the same, and may be used as evidence in prosecution for violation of this act. Any person swearing falsely to any material fact of said affidavit shall be guilty of perjury, and punished accordingly.

§ 6. PENALTY.] If any person shall shoot, kill, catch or take, trap, ensnare, buy, sell, ship or have in possession; or ship, take, or carry out of the Territory, contrary, to the provisions of this act, any of the birds named in this act, or shall wilfully destroy any eggs or nests of birds named in this act, such person shall be punished by a fine of ten dollars for each bird and ten dollars for each nest, or the eggs, therein, so shot, killed, trapped caught, or taken, ensnared, bought, sold, shipped, had in possession, destroyed or shipped, taken or carried out of the Territory, and shall stand committed to the county jail, unless such fine and the costs of prosecution be sooner paid.

§ 7. TRANSPORTATION COMPANIES LIABLE.] If any railway, express company, or any other common carrier, or any of their agents or servants, knowingly receive any of the above mentioned birds, for transportation or other purpose, during the periods hereinbefore limited, and prohibited, or at any other time except in manner provided in section five of this act they shall be punished by a fine of not less than one hundred or more than three hundred dollars or by imprisonment in the county jail for thirty days, or by both such fine and imprisonment.

§ 8. UNLAWFUL MANNER OF KILLING.] If any person shall kill or shoot any wild duck, goose or brant, with any swivel gun, or any kind of gun, except such as is commonly shot from the shoulder, or shall use medicated or poisoned food to capture or kill any of the birds named in this act, he shall be deemed guilty

of a misdemeanor, and upon conviction shall be fined twenty-five dollars for each offense, and shall stand committed to the county jail for thirty days unless such fine and the costs of prosecution are sooner paid.

§ 9. PROSECUTIONS, HOW BROUGHT.] Prosecutions for violations of this act may be brought either in the county in which the offense was committed, or in any other county where the person, company or corporation of, has had or has in his possession any birds herein named, bought, sold, killed, trapped, or ensnared in violation of any of the provisions of this act.

§ 10. COURT TO APPOINT ATTORNEY TO PROSECUTE—FEE.] In all prosecutions under this act, the court before whom the same is brought shall appoint some attorney at law for the purpose of managing the prosecution of the cause, and such attorney shall be entitled to a fee of ten dollars in each and every case in which he is so appointed, and the person filing an information under this act shall, in case of conviction, be entitled to a fee equal to one-half of the amount imposed on each conviction, and both the fee of such attorney and the informant shall be taxed as costs in the case of the person convicted; *Provided*, That the county shall in no case be held liable for said attorney's fee or penalty.

§ 11. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 12. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 59.

TO PROTECT LARGE GAME AND QUAIL.

AN ACT To Protect Large Game and Quail in Dakota Territory.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. UNLAWFUL TO SHIP.] That it shall be unlawful for any person, persons, company or corporation to ship for any purpose whatsoever from the Territory of Dakota the carcass of any buffalo, elk, deer, antelope or mountain sheep.

§ 2. UNLAWFUL TO KILL QUAIL FOR TWO YEARS.] It shall be unlawful for any person or persons to kill, trap or destroy by any means whatever, any quail in the Territory of Dakota for a period of two years.

§ 3. PENALTY.] Any person, persons or corporation who shall violate the provisions of section one of this act shall be deemed

guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each such carcass so shipped the sum of fifty dollars.

§ 4. PENALTY FOR UNLAWFUL KILLING OF QUAIL.] Any person or persons who shall violate section two of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined the sum of ten dollars for each such quail so killed, trapped or destroyed, together with costs of prosecution.

§ 5. All acts and parts of acts in conflict with this act are hereby repealed.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, March 5, 1887.

CHAPTER 60.

TO PROHIBIT THE DESTRUCTION OF BEAVER.

AN ACT To Prohibit the Destruction of Beavers in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. UNLAWFUL TO KILL FOR FIVE YEARS.] That it shall be unlawful to kill, entrap, ensnare, capture or destroy any animal of the beaver family within the Territory of Dakota, during a period of five (5) years from and after the date this act takes effect.

§ 2. PENALTY.] Any person who shall violate any of the provisions of this act, shall, upon conviction thereof, be subject to pay a fine not exceeding one hundred (100) dollars or imprisonment in the county jail for a period not exceeding thirty (30) days, or both such fine and imprisonment at the discretion of the court.

§ 3. This act shall be in effect from and after its passage and approval.

Approved, March 11, 1887.

HEALTH.

CHAPTER 61.

TERRITORIAL BOARD OF HEALTH.

AN ACT To Amend Chapter 63 of the Session Laws of 1885, Entitled "An Act Establishing Territorial and County Boards of Health, and Providing for the Protection of the Health of Persons and Animals, and for Other Purposes."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TERRITORIAL BOARD, OF WHOM COMPOSED.] That section one of chapter sixty-three of the Session Laws of 1885, be and the same is hereby amended to read and be as follows: "That there is hereby established a Territorial Board of Health of the Territory of Dakota, composed of a president, vice-president and superintendent of public health. The Board of Health shall consist of persons residents of the Territory, learned in medicine, and graduates of medical colleges recognized by the American Medical Association, who shall be appointed by the Governor by and with the consent of the Council. The several appointments as members of said board shall state what office on said board they are appointed to, and they shall severally hold their offices for the term of two years and until their successors are appointed and qualified.

§ 2. AMENDMENT TO SECTION FIFTEEN.] That section fifteen of said act be amended by prefixing the word "President" before the words "Vice-President and Superintendent of Public Health" where they occur in the said section and act.

§ 3. AMENDMENT TO SECTION FOURTEEN—TERRITORIAL BOARD MAY CANCEL LICENSE OF MEDICAL PRACTITIONERS—WHEN.] That section fourteen of said act be amended by prefixing before the words "medical college" in the third line of said section and act, the word "reputable," and after the word "misdemeanor" in the forty-third line shall be so amended as to read "The Territorial Board of Health shall, upon complaint being made to them on oath by two responsible persons, have power to cancel any license that may have been issued by said board to practice medicine under the provisions of this act when such license was fraudulently obtained, or when the person to whom such license was

issued is an habitual drunkard, is guilty of immoral practices or gross unprofessional conduct.

§ 4. REPEALED.] Section [sections] seven, eight, nine, ten, eleven, twelve and sixteen, of said act is hereby repealed.

§ 5. CERTAIN WORDS STRICKEN OUT.] Whenever the words "county boards of health" shall occur in said act, the same is hereby repealed.

§ 6. BOARD OF MEDICAL EXAMINERS.] The Territorial Board shall, at their first meeting appoint three competent physicians, residents of this Territory, who shall constitute a board of medical examiners, who shall examine all persons applying for license to practice medicine under the provisions of said act, where such persons are not graduates of a reputable medical college, and such person applying for license shall pay to the board of examiners the sum of twenty dollars, which shall be compensation in full for such examination.

§ 7. POST MORTEM EXAMINATIONS—FEE.] Any physician making post mortem examination of dead body, shall receive for such examination a sum of not less than ten nor more than fifty dollars.

§ 8. EXPERT TESTIMONY—FEE.] Any physician required by law to give expert testimony before any court in the Territory of Dakota, shall receive for such testimony the sum of ten dollars for each day's attendance upon such court.

§ 9. All acts and parts of acts in conflict with this act are hereby repealed.

§ 10. This act shall take effect and be in full force from and after its passage and approval.

Approved, March 11, 1887.

INSANE.

CHAPTER 62.

JAMESTOWN—AUTHORIZING ISSUE OF BONDS FOR ADDITIONAL BUILDINGS AND IMPROVEMENTS FOR THE NORTH DAKOTA HOSPITAL FOR INSANE.

AN ACT Entitled "An Act to Provide for the Issuing of Bonds for Additional Buildings and Improvements for the North Dakota Hospital for the Insane Near Jamestown, and to Appropriate Money Therefor."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ADDITIONAL BUILDINGS, IMPROVEMENTS, ETC.—APPROPRIATION.] There is hereby appropriated out of the funds provided for in this act, the sums hereinafter mentioned, for the erection of buildings on the grounds of the North Dakota Hospital for the Insane near Jamestown, Dakota, and the improvement of said Hospital as follows:

For buildings to be erected, for ward buildings, chapel and amusement hall, storage, ice, and refrigerator house, barn, boiler, and coal houses, kitchen and bakery, heating and lighting the same, furnishing, painting, and equipping of present buildings, fire protection, water pipes, hydrants, etc., cisterns, fire escapes, grading and improvement of grounds, fencing and improvement of farm for additional stock therefor, machinery, tools and utensils and furniture for all new buildings, the sum of one hundred fifty-three thousand (153,000) dollars.

Buildings to be erected, not to exceed in cost one hundred and thirty-three thousand five hundred dollars as follows:

For ward buildings seventy thousand (70,000) dollars.

For chapel and amusement hall nine thousand (9,000) dollars.

For wing to office, five thousand (5,000) dollars.

Storage, ice, and refrigerator house six thousand (6,000) dollars.

Boiler and coal house, ten thousand (10,000) dollars.

Kitchen and bakery, two thousand (2,000) dollars.

Barn, two thousand (2,000) dollars.

For cisterns, fifteen hundred (1,500) dollars.

For corridors connecting wards, ten thousand (10,000) dollars.

Fire protection, water pipes, hydrants, etc., three thousand (3,000) dollars.

Fire escapes, fifteen hundred (1,500) dollars.

Steam heating, including boilers, sixteen thousand (16,000) dollars.

Painting, etc., of present buildings, fifteen hundred (1,500) dollars.

Electric light, five thousand (5,000) dollars.

Grading and improvement of grounds, five hundred (500) dollars.

Fencing and improvement of farm, fifteen hundred (1,500) dollars.

Additional stock, tools and utensils, one thousand (1,000) dollars.

Furniture for new buildings, six thousand (6,000) dollars.

Additional water supply, four thousand (4,000) dollars.

§ 2. BONDS.] To provide for such funds, bonds of this Territory shall be issued to the amount of not to exceed one hundred and fifty-three thousand dollars, in denominations of five hundred dollars each, bearing date the first day of May 1887, with interest payable semi-annually, at some place in New York City to be specified in said bonds, on the first day of July and January of each year, not to exceed five per cent. per annum, running fifteen years.

§ 3. BONDS—HOW EXECUTED.] Such bonds shall be executed for the Territory, and under the seal thereof, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 4. PROPOSALS—DUTY OF TREASURER.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest and best bidder for cash at not less than par.

§ 5. BOND TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied and collected, such sums as shall be sufficient to pay such interest and the exchange thereon. And after ten years from the first day of May, eighteen hundred and eighty seven, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of January and July of each year, such interest as shall be due, and to purchase said bonds at not more than their par value, and retire and cancel the same, with the sinking fund tax, as fast as the same shall be received. And no tax or fund provided for the payment of such bonds, either

principal or interest, shall at any time be used for any other purpose.

§ 6. INTEREST PAID FROM OTHER FUNDS—WHEN.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided to pay either the principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated funds belonging to the Territory; and there is hereby appropriated and set apart out of the general fund belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of the Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 7. REPLACING FUNDS.] All moneys belonging to the general Territorial fund applied by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 8. PROPOSALS FOR BUILDING—PLANS APPROVED BY GOVERNOR—DUTY OF BOARD.] The board of trustees of the North Dakota Hospital for the Insane, near Jamestown, shall immediately after the passage and approval of this act, prepare or cause to be prepared, plans and specifications, for the buildings and improvements enumerated in section one of this act, and after the same shall have been adopted and approved by them and the Governor of the Territory, the said board of trustees shall cause said plans and specifications to be filed with the secretary and it shall be the duty of said board within twenty days thereafter to give public notice, which notice shall be inserted for thirty days in two newspapers published in the Territory, and of general circulation therein, and in two newspapers published in other states, that on a day specified in such notice, they will receive sealed proposals at the office of the hospital, near Jamestown, for the building of the said additions and improvements to the North Dakota Hospital for the Insane near Jamestown, Dakota, according to plans and specifications aforesaid, which shall be open for inspection of bidders at the office of the Hospital for the Insane, or at such place in the city of Jamestown as the board may designate.

§ 9. TOTAL COST—PREMIUMS TO BE USED.] The total cost of said buildings and improvements shall not exceed one hundred and fifty-three thousand dollars; *Provided*, That any and all premiums arising from the sale of said bonds is hereby appropriated to the use of said hospital, under the direction of the board of trustees, for the general improvement of said institution and grounds.

§ 10. AWARDING CONTRACT.] On the day advertised for the opening of the said proposals for the erecting and completing of said additions and improvements, the board of trustees shall proceed to award the contract or contracts, reserving the right to reject any or all bids, if in their judgment they are too high, and

may again advertise for proposals, or accept such bids as in their judgment may be for the best interests of the institution.

§ 11. **WALLS, HOW BUILT.**] The walls of said building shall be constructed of good brick or stone, and said buildings shall be made as nearly fire-proof as practicable.

§ 12. **PARTIAL PAYMENTS.**] The board of trustees, as the work progresses, shall on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on the additions and improvements at the time, and on such certified statement the Auditor shall issue a warrant on the Territorial Treasurer for a sum not exceeding seventy-five per cent. of the value of the work so certified to have been done on said additions and improvements, at the time of making such application, including amount of all warrants previously issued in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said additions and improvements shall be paid, or value of the work certified by the trustees, until at least one fourth of the work has been completed by the contractor or contractors.

§ 13. **BUILDING MATERIAL.**] The contractor or contractors shall stipulate that all material shall be of good quality and that the work shall be performed in a good workmanlike manner. And these stipulations shall be enforced.

§ 14. **FINAL PAYMENT.**] The balance due the contractor or contractors under the contract or contracts, shall be paid on the completion of the improvements or additions and their acceptance and approval by the board of trustees.

§ 15. **IN CASE OF DIVISION OF TERRITORY.**] In case of division of the Territory, that part of the Territory of Dakota in which said Hospital for the Insane is located shall, on the division of the Territory, assume and pay all bonds and coupons issued and then existing on account of the construction of the said additions and improvements.

§ 16. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 63.

JAMESTOWN—APPROPRIATION FOR MAINTENANCE OF NORTH
DAKOTA HOSPITAL FOR INSANE.

AN ACT Making Appropriation for the Maintenance of the North Dakota Hospital for the Insane, Near Jamestown, Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATED.] There is hereby appropriated, for the maintenance of the North Dakota Hospital for the Insane, near Jamestown, Dakota, the following sums of money, or so much thereof as may be necessary, out of any funds in the Territorial Treasury not otherwise appropriated, for the ensuing two years:

For the maintenance of patients of the North Dakota Hospital for the Insane, near Jamestown, for their necessary clothing, and for the board of employes and officers residing in the hospital, the sum of \$ 45,000

Wages of employes.....	27,000
Fuel and lights.....	16,500
Incidental expenses.....	2,000
For the drugs, medicines.....	2,500
For the necessary repairs and improvements of such hospital	3,000
For return of patients, and burial of dead.....	2,000
For musical instruments, amusements of patients.....	2,500
For finishing basement in female ward, and heating the same.....	2,500
For pig pens, hennery, etc.,.....	800
For elevators in the wards.....	850
For laundry machinery.....	1,500
For storm windows and storm porches.....	1,000
For machinery and tools for shops.....	800
For deficiency for fuel and maintenance for past two years and estimate to April 1, 1887.....	29,377

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 64.

**YANKTON—AUTHORIZING ISSUE OF BONDS FOR ADDITIONAL
BUILDINGS AND IMPROVEMENTS FOR DAKOTA HOS-
PITAL FOR INSANE.**

AN ACT To Provide for the Issuing of Bonds, and for Additional Buildings and Improvements for the Dakota Hospital for the Insane, Near Yankton, Dakota, and to Appropriate Money Therefor.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FUNDS APPROPRIATED.] There is hereby appropriated out of the funds provided for in this act, the sums hereinafter mentioned, for the erection of two wings to the Dakota Hospital for the Insane, near Yankton, Dakota, and the improvement of said hospital, and the better management thereof as follows:

For additional east and west wings; for furnishing said wings; for electric light for said hospital; for boiler room and steam heating; for artesian well and additional sewerage system, the sum of ninety-two thousand and five hundred (92,500) dollars.

Two wings to be erected not to exceed in cost, thirty-five thousand (\$35,000) each.....	70,000
For furnishing two new wings three thousand dollars....	3,000
For a system of electric lights, in said hospital five thousand dollars.....	5,000
For new boiler, boiler room and steam heating for hospital, ten thousand dollars.....	10,000
For artesian well, three thousand dollars.....	3,000
For additional sewerage system, fifteen hundred dollars	1,500
Total.....	\$92,500

§ 2 BONDS.] To provide such funds, bonds of the Territory shall be issued to the amount of not to exceed ninety-two thousand five hundred dollars, in denominations of five hundred dollars each, bearing date the first day of May, eighteen hundred and eighty-seven, with interest payable semi-annually, at some place in New York city, to be specified in said bonds, on the first day of January and July of each year, at the rate of not to exceed five per cent. per annum, running twenty years and payable at the option of the Territory, at any time after five years from the date of the same.

§ 3. BONDS, HOW EXECUTED.] Such bonds shall be executed for the Territory, and under the seal thereof, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 4. PROPOSALS—DUTY OF TREASURER.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers of general circulation, one of which shall be published in this Territory, and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash, at not less than par.

§ 5. BOND TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied, and collected in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest, and the exchange thereon, and after ten years from the first day of May, eighteen hundred and eighty-seven, in addition thereto a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity. And it shall be the duty of the Territorial Treasurer to pay promptly, on the first days of January, and July of each year, such interest as shall be due, and to purchase said bonds at not more than their par value, and retire and cancel the same, with the sinking fund tax, as fast as the same shall be received; and no tax or fund provided for the payment of such bonds either principal or interest, shall at any time be used for any other purpose.

§ 6. INTEREST PAID FROM OTHER FUNDS—WHEN.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided, to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated funds belonging to the Territory, and there is hereby appropriated and set apart, out of the general fund belonging to the Territory, a sum sufficient to pay such interest on said bonds as may become due, before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 7. FUNDS TO BE REPLACED.] All moneys belonging to the general Territorial fund, applied by said Treasurer in the payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 8. PLANS AND SPECIFICATIONS—ADVERTISE FOR PROPOSALS.] The board of trustees of the Dakota Hospital for the Insane, near Yankton, Dakota, shall, immediately after the passage and approval of this act, prepare, or cause to be prepared, plans and specifications for building the additions and improvements enumerated in section one of this act, and after the same shall have been adopted and approved by them and the Governor of the Territory, the said board of trustees shall cause said plans and speci-

fications to be filed with their secretary, and it shall be the duty of said board, within twenty days thereafter, to give public notice, which notice shall be inserted for thirty days in two newspapers published in the Territory, and of general circulation therein, and in two newspapers published in other states, and that on a day specified in such notice they will receive sealed proposals at the office at the hospital, near Yankton, for the building of the said additions and improvements to the Dakota Hospital for the Insane, near Yankton, Dakota, according to the plans and specifications aforesaid, which shall be open for inspection of bidders at the office of the Hospital for the Insane, or at such place in the city of Yankton as the board may designate.

§ 9. TOTAL COST.] The total cost of said buildings and improvements shall not exceed ninety-two thousand five hundred (92,500) dollars; *Provided*, That any and all premiums arising from the sale of said bonds is hereby appropriated to the use of said hospital, under the direction of the board of trustees, for the general improvement of said institution and grounds.

§ 10. AWARDING CONTRACT.] On the day advertised for the opening of said proposals for erecting and completing the said additions and improvements, the board of trustees shall proceed to award the contract or contracts, reserving the right to reject any or all bids, if, in their judgment, they are too high, and may again advertise for proposals, or accept such bids as in their judgment may be for the best interests of the institution.

§ 11. WALLS OF BRICK OR STONE.] The walls of said building shall be constructed of good brick or stone, and said building shall be made as nearly fireproof as practicable.

§ 12. PARTIAL PAYMENTS.] The board of trustees as the work progresses, shall, on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on the additions and improvements at the time, and on such certified statement the Auditor shall issue a warrant on the Territorial Treasurer for a sum not exceeding eighty-five per cent. of the value of the work certified to have been done on said additions and improvements, at the time of making such application, including amount of all warrants previously issued in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said additions or improvements shall be paid, or value of work certified by the trustees until at least one-fourth ($\frac{1}{4}$) of the work has been completed by the contractor or contractors.

§ 13. WHAT CONTRACT SHALL STIPULATE.] The contract or contracts shall stipulate that all material shall be of good quality and that the work shall be performed in a good workmanlike manner, and these stipulations shall be enforced.

§ 14. FINAL PAYMENT.] The balance due the contractor or contractors under the contract or contracts shall be paid on the

completion of the additions or improvements and their acceptance and approval by the board of trustees.

§ 15. IN CASE OF DIVISION OF TERRITORY.] In case of division of the Territory, that part of the Territory of Dakota in which said Hospital for the Insane is located, shall, on the division of the Territory, assume and pay all bonds and coupons issued and then existing by and on account of the provisions of this act.

§ 16. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 65.

YANKTON—APPROPRIATION FOR MAINTENANCE OF DAKOTA HOSPITAL FOR INSANE.

AN ACT Making an Appropriation for Maintaining the Dakota Hospital For the Insane, for the Years 1887 and 1888.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the Territorial Treasury, not otherwise appropriated, for furnishing and maintaining the Dakota Hospital for the Insane, near Yankton, Dakota, for the ensuing two years, the following sums, or so much thereof as may be necessary:

For the maintenance of patients and for their necessary clothing, and for the board of employes and officers residing in the hospital, forty-five thousand (45,000) dollars.

For employes for new wings, four thousand (4,000) dollars.

For employes for present building, twenty-three thousand (23,000) dollars.

For improvement of hospital farm, four thousand five hundred (4,500) dollars.

For improvement of hospital grounds, two thousand (2,000) dollars.

For improvement of hospital buildings, four thousand (4,000) dollars.

For drugs, books and amusements, two thousand five hundred (2,500) dollars.

For incidental expenses, three thousand (3,000) dollars.

For fuel, twelve thousand five hundred (12,500) dollars.

For fuel for new wings, four thousand (4,000) dollars.

For return and burial of patients, two thousand (2,000) dollars.
§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 66.

OF THE DISCHARGE OF PATIENTS WITHOUT APPLICATION.

AN ACT To Amend Section Thirty-nine, of Chapter Twenty-three, of an Act Entitled "An Act to Establish the Dakota Hospital for the Insane, Providing for the Government of the Same, and for the Care of the Insane, and for the Organization of a Board of Insanity in Each Organized County of This Territory," of the Session Laws of 1879.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

. § 1. DISCHARGE OF PATIENTS WITHOUT APPLICATION—COUNTY COMMISSIONERS TO REMOVE—LIABILITY FOR FAILURE TO COMPLY.] That section thirty-nine of chapter twenty-three of an act entitled, "An act establishing the Dakota Hospital for the Insane, providing for the government of the same, and for the care of the insane, and for the organization of a board of commissioners of insanity in each organized county of this Territory," be, and the same is hereby amended by adding to said section at the end thereof the following words: "And if the said commissioners of such county where the said patient belongs fail or neglect to take and remove such patient so discharged, as provided in this section within thirty (30) days from the date of the order discharging him, and of the notice of the order so sent, the said county where said patient belongs, shall be liable for and pay to the Territory of Dakota at the rate of two (2) dollars per day, for the care and keeping of such patient at the said hospital; such time for said keeping to be computed, and commence thirty (30) days after the date of said order and notice. It shall be the duty of the superintendent of said hospital to report any and all such delinquencies, and the time of any and all patients so kept beyond such time aforesaid, giving the names thereof, the county where the said patient or patients belong, the amount due from such county for such charge, to the Governor of the Territory for the year ending on the thirtieth day of November of each year. It shall be the duty of the Territorial Board of Equalization, to include and charge said amount or amounts so reported as aforesaid to each county or counties so named, and same shall be included and made

a part of the tax levied against such county or counties, in addition to the amount so levied by said board for Territorial purposes.

§ 2. ATTORNEY GENERAL TO BRING SUIT, WHEN.] Upon the report of the superintendent, provided in section one, it shall be the duty of the Attorney General to bring suit against the county so indebted, for the amount due the Territory and any judgment obtained in such action may be enforced as other judgments against counties are enforced.

Approved, March 11, 1887.

INSURANCE.

CHAPTER 67.

COUNTY MUTUAL INSURANCE COMPANIES.

AN ACT To Amend Chapter 70, of the Session Laws of 1885, Relatng to County Mutual Insurance Companies.

Be it Enacted by the Legislative Assembly of the Territory of Dakota: That chapter seventy of the Session Laws of 1885, relating to county mutual insurance companies, be amended so as to read as follows:

§ 1. WHO MAY UNITE TO FORM COMPANY.] It shall be lawful for any number of persons, not less than twenty-five, residing in any county in this Territory, who collectively shall own property not less than twenty-five thousand (25,000) [dollars] in value, which they desire to insure, to form themselves into a company for mutual insurance against loss or damage by fire, lightning and hail, which corporation shall possess other powers and be subject to other duties of corporations, and the corporate name thereof shall embrace the name of the county in which the business office of the said company shall be located.

§ 2. DIRECTORS. Every company so formed, shall choose of that number not less than five nor more than thirteen directors, to manage the affairs of such company, who shall hold their office for one year, or until others are elected and qualified and such directors shall choose one of their number president, vice-president,

secretary and treasurer and said treasurer shall give such bond as may be required by the board of directors of said company, and said company may also require the secretary thereof to give such bonds.

§ 3. ARTICLES TO BE FILED.] The directors of such company shall file their articles of incorporation, together with a copy of their by-laws and the names of the officers of such company, in the office of the county clerk, or the auditor of the county in which such company is located, and shall keep a record of their proceedings in a book kept for that purpose, together with the names of all persons insured and the amount each person is insured, which record shall be kept open for inspection to all the members in such company at the office of the secretary thereof.

§ 4. MAY ISSUE POLICIES.] The directors of such company may issue policies, signed by the president and secretary, agreeing in the name of the company to pay all losses or damage by fire, lightning and hail, for a term not exceeding five years, to the holder of such policies, not exceeding the sum named in such policy.

§ 5. DUTY OF COMPANY.] In all cases of insurance against loss or damage by hail, it shall be the duty of such company to keep a separate and distinct record of all interest, premiums and policies of insurance, relating or pertaining to such hail insurance, and no note, premium, undertaking or policy of insurance which shall be received, issued or delivered for any insurance against loss by hail shall be used in any connection with insurance against loss or damage by reason of any other cause, and that no moneys, premiums or funds arising out of or received for insurance against loss or damage by hail shall be used in the payment of any loss or damage by reason of fire or lightning, and that no moneys, premiums or funds arising out of, or received for insurance against loss or damage by fire and lightning shall be used in the payment of any loss or damage by hail.

§ 6. OBLIGATION OF INSURED AGAINST HAIL.] Every person insuring grain against loss or damage by hail shall, except where cash premium is paid, execute and deliver to such company his promissory note, bearing even date with the policy issued to him therefor, together with such security as may be required by the board of directors, or the by-laws of such company. In case of insurance against loss or damage by hail, the directors of such company may issue policies, signed by the president and secretary, agreeing in the name of the company, to pay all losses or damages by hail, or such pro rata share of such loss or damage as can be paid out of the highest limit of the liabilities of the members, which liabilities shall be established by the by-laws of such company, before the issuing of any policy of insurance against loss or damage by hail.

§ 7. DUTY OF DIRECTORS.] It shall be the duty of the board of directors to appoint one or more adjusters, prescribe their

duties and fix their compensation, requiring them to report to the president or secretary upon all losses or damage by hail adjusted by them. Upon any loss or damage by hail, the party sustaining the same shall immediately notify the secretary or a duly appointed adjuster of such loss or damage. In case the adjuster and party sustaining the loss cannot agree, the claimant may then appeal, as provided for in section ten of this act, and notice of loss or damage by hail shall be the same as is prescribed in said section ten of this act.

§ 8. **WHAT BY-LAWS MAY PROVIDE.]** It shall be lawful for any company organized under this act, to provide in their by-laws for creating a fund of not to exceed fifteen thousand (15,000) dollars in the hail department, and the sum of not to exceed three thousand (3,000) dollars in the fire and lightning department, the by-laws to set forth the manner in which such funds shall be created and the purpose to which they shall be applied.

§ 9. **OBLIGATION OF INSURED AGAINST FIRE AND LIGHTNING.]** Every person insured against loss or damage by fire and lightning, shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns to pay his pro rata share to the company of all losses or damage by fire and lightning, which may be sustained by any member thereof, and every such undertaking shall within five days after the execution thereof, be filed with the secretary in the office of said company and shall remain on file in said office, except when required to be produced in court as evidence. He shall also at the time of receiving such insurance pay such percentage in cash or such reasonable sum named in the policy, as may be required by the rules and by-laws of the company.

§ 10. **IN CASE OF LOSS.]** Every member of said company who may sustain loss or damage by fire, and lightning, shall immediately notify the secretary of said company, or in case of his absence, the president thereof, specifying the property destroyed, the damage and cause thereof, which officer shall forthwith ascertain and adjust the amount of such loss or damage or who shall forthwith convene the directors of such company whose duty it shall be to appoint a committee of not more than three members of said company, to ascertain the amount of such loss and in case of the inability of the parties to agree upon the amount of such damage, the claimant shall choose a disinterested party and the company shall choose a disinterested party, who shall constitute a board of arbitration to settle such loss, and in case these parties cannot agree, they shall choose a third party to act with them, and said board of arbitration shall have power to examine witnesses and determine all matters in dispute and the decision of said board shall be final.

§ 11. **MAY CLASSIFY PROPERTY.]** The company, under the provisions of this act, may classify property insured at the time of issuing the policy thereon, under different rates, corresponding

as nearly as may be to the greater or less risk from fire or loss which may attach to each several building or personal property insured, or damage by hail. Whenever the amount of any loss shall be ascertained, and there are not sufficient funds in the treasury to pay such loss or damage, the president or secretary shall convene the directors of said company, who shall make assessments on the property insured, taken [taking] in connection the rate of premium under which it may have been classified; *Provided, however,* That no assessment for loss or damage by hail shall be made prior to the first day in September of the year in which said loss occurred.

§ 12. SECRETARY TO COLLECT ASSESSMENTS.] It shall be the duty of the secretary, whenever such assessment shall have been completed, to notify every person composing such company by letter sent to their postoffice address, of the amount of such loss, and the sum due from him as his share thereof, and the time when, and to whom, such payment is to be made, and such time shall not be less than thirty days nor more than sixty days from the time of such notice. And no company organized under the provisions of this act shall be liable in any action at law or otherwise, for the recovery of any loss or damage by hail before the fifteenth day of November of the year in which such loss occurred.

§ 13. SUITS.] Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of such company so formed who shall wilfully neglect to perform the duties imposed upon them under the foregoing sections of this act shall be liable in their individual capacity to the person sustaining such loss.

§ 14. PROHIBITION.] No company formed under the provisions of this act shall insure any property outside the limits of the county in which such company is located, nor shall they insure any property other than detached dwellings and their contents, farm buildings and their contents, school houses and school furniture therein, church buildings and furniture therein, live stock only on the premises or running at large and hay or grain in bin or stack, or growing grain against damage by hail, nor shall they insure any property within the limits of any incorporated city or village in this Territory.

§ 15. ELECTION OF DIRECTORS.] The directors of each company so formed, shall be chosen by vote at the annual election thereof, which shall be held on the first Tuesday after the first Monday in January of each year and every member shall have one vote; but no person shall vote by proxy at such election; *Provided,* That any company organized under the provisions of this act, whose policies of insurance shall not run for a longer period than one year; all persons holding policies of insurance therein during the year immediately preceding the annual elec-

tion shall be considered as members of said company and shall be entitled to vote at such election.

§ 16. **STATEMENT OF CONDITION.**] It shall be the duty of the secretary of every company as aforesaid, to prepare a statement, showing the condition of such company on the Tuesday preceding the annual election, which statement shall contain the amount insured, the number of policies issued and to whom, and the amount insured by each policy and other matters pertaining to the interest of such company, which statement shall be filed in the office of the county auditor in the county in which such company is located, on or before the fifteenth day of January of each year and which statement shall also be read to the members at their annual meeting, or so much thereof as may be required by the members present.

§ 17. **WITHDRAWALS.**] Any member of such company may withdraw therefrom at any time by giving ten days' notice to the president in writing, or to the secretary thereof and by paying his share of all claims existing at the expiration of the ten days, against said company, and the directors, or a majority thereof, shall have power to annul any policy, by giving ten days' notice in writing to the holder thereof.

§ 18. **NON-RESIDENTS.**] Non-residents of any county in this Territory owning property therein, may become members of any company founded under this act and shall be entitled to all the rights and privileges pertaining thereto, except that it shall not be lawful for such non-residents to become directors in such company.

§ 19. **BY-LAWS.**] Any company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act and may therein prescribe the compensation for its officers.

§ 20. **DURATION OF CORPORATION.**] No company formed under this act shall continue for a longer term than thirty years.

§ 21. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 22. This act shall take effect and be in force from and after its passage and approval.

Approved, February 25, 1887.

CHAPTER 68.

PROVIDING FOR INSURANCE OF TERRITORIAL INSTITUTIONS.

AN ACT Relating to the Insurance of Public Buildings in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PROPERTY TO BE INSURED—GOVERNOR TO APPROVE COMPANY.] It shall be the duty of the board of trustees, directors or regents, to cause to be insured in such insurance company or companies as may be approved by the Governor, for the benefit of the Territory of Dakota, the public buildings and contents, or institutions under their control or charge, respectively, for an amount not to exceed two-thirds their value, and for that purpose they are hereby authorized to expend such a sum as may be necessary, and upon presenting vouchers therefor to the Auditor of the Territory of Dakota, it shall be his duty to draw a warrant upon the Treasurer of Dakota in payment of the sum or amount so expended.

§ 2. DUTY OF GOVERNOR.] It shall be the duty of the Governor of the Territory of Dakota to cause to be insured all other public buildings and contents belonging to the Territory of Dakota, for the benefit of the Territory of Dakota, at not to exceed two-thirds their value, and for that purpose the Auditor shall draw his warrant upon the Treasurer in payment of the premiums for such insurance.

§ 3. IN EVENT OF LOSS.] In the event of a loss occurring under any policy upon any public building insured under the provisions of this act, the money received from the insurance shall be used and expended by the Governor, board of directors, trustees or regents, in the erection or repair of the building upon the site of the one injured or destroyed, and such building shall be occupied and used for the same purposes as the one damaged or destroyed. Policies under this act shall run in the name of the Territory of Dakota and shall be for a term of three years.

§ 4. All acts and parts of acts in conflict herewith are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 69.

CANCELLATION AND FORFEITURE OF INSURANCE POLICIES.

AN ACT To Regulate the Cancellation and Forfeiture of Insurance Policies.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. HOLDER OF POLICY MAY SURRENDER SAME FOR CANCELLATION AT ANY TIME.] That the holder of any policy of insurance against loss or damage to property by fire or other casualty hereafter issued by any insurance company doing business in this Territory, may, notwithstanding any provision thereof, or contract to the contrary, at any time surrender the same for cancellation; and upon such surrender, the company issuing such policy shall retain or receive such proportion and no more of the premium paid or agreed to be paid, as corresponds with the usual short rates upon term policies, as adopted and maintained by the Minnesota and Dakota Fire Underwriters Union of St. Paul, Minnesota, for the time the policy remained in force.

§ 2. POLICY FORFEITED, WHEN—INSURER TO GIVE NOTICE—WHAT NOTICE TO CONTAIN.] No such policy of insurance shall, by virtue of any condition, or provision thereof, be forfeited, suspended or impaired for non-payment of any note or obligation taken for the premium, or any part thereof, unless the insurer shall, not less than thirty (30) days prior to the maturity of such premium, note, or obligation, mail, postage prepaid to the assured at his usual post office, a notice stating:

1. The date when such note or obligation will become due.
2. The amount of principal and interest, that will then be due.
3. The effect upon the policy of non-payment.

4. Such notice shall further inform the assured of his right, at his own election, either to pay in full, and keep the policy in full force, or to terminate the insurance by surrendering the policy, and paying such part of the whole premium as it shall have earned, and must further state the amount, which assured is lawfully required to pay, or which, on account of previous payment, may be due him, in case of his election, to terminate the insurance on the day of the maturity of the premium, note or obligation.

§ 3. PREMIUM DEFINED.] The term "premium," within the meaning of this act, includes policy fees, in excess of two (2) dollars, on any one (1) policy, and all other sums of money paid, or agreed to be paid in consideration of a policy of insurance.

§ 4. This act to take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, Dak., March 7, 1887.
The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

INTOXICATING LIQUORS.

CHAPTER 70.

PROVIDING FOR PROHIBITION BY LOCAL OPTION.

AN ACT To Prohibit the Sale of Intoxicating Liquors by Local Option.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PETITION OF VOTERS.] If a petition signed by at least one-third ($\frac{1}{3}$) of the legal voters of any county, as shown by the preceding general election, shall be presented to the county commissioners of any county, at least sixty (60) days before the Tuesday next after the first Monday in November, in the year 1887, praying that the question of prohibition of the sale of intoxicating liquors be submitted to a vote of such county, it shall be the duty of the board of county commissioners to order an election to be held on the Tuesday next after the first Monday in November, 1887, at which election the qualified voters of such county shall vote upon the question of prohibiting the sale of intoxicating liquors in such county. Such election shall be in all respects conducted as general elections are conducted.

§ 2. BALLOTS OF VOTERS.] All persons voting at any election held under the provisions of this act, who are opposed to the sale of such intoxicating liquors, shall have written or printed on their ballots "Against the Sale" and those who favor the sale of such intoxicating liquors, shall have written or printed on their ballots "For the Sale."

§ 3. WHEN LICENSE NOT TO ISSUE.] Should a majority of the ballots cast at such election be "Against the Sale," it shall be un-

lawful for the board of county commissioners of such county, to issue or grant a license for the sale of intoxicating liquors in such county; or for any common council or officers of any incorporated town, city or village in said county, to grant or issue any license for the sale of such intoxicating liquors. Any board, officer or person violating the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined a sum not exceeding one thousand (1000) dollars and not less than two hundred (200) dollars or imprisoned in the county jail for a term not exceeding one (1) year or both such fine and imprisonment in the discretion of the court.

§ 4. WHEN QUESTION OF SALE OF INTOXICATING LIQUORS TO BE AGAIN SUBMITTED.] At any general election but at no other time, the question of prohibiting the sale of intoxicating liquors shall be again submitted to a vote of the qualified electors of any county, if one-third of the voters of such county as evidenced by the vote cast at the last preceding general election, petition the board of commissioners therefor, The result of any election held under the provisions of this act shall remain in force until changed at some subsequent election held hereunder.

§ 5. WHEN INJUNCTION MAY ISSUE TO RESTRAIN SALE.] In addition to the penalties now prescribed by law, any person or persons who may sell any intoxicating liquors without a license having been duly granted as provided by law, or where the license is granted in violation of this act, shall be restrained from so doing by proper injunction issued by the court or a judge thereof, and any person may secure such injunction, and may use the name of the county as plaintiff in the suit, and no security shall be required, and the district attorney of such county shall in all things conduct such prosecution.

§ 6. CONFLICTING ACTS REPEALED.] All acts special or general so far as they conflict with the provisions of this act are hereby repealed; *Provided*, That upon the canvass of the vote taken as provided by this act, where the result shall have been declared to be against the sale, the commissioners of any county within which such election may be held, shall at the first regular meeting thereafter, revoke all licenses theretofore granted, and refund any amount which may be due any person by reason of such revocation; *Provided, however*, That this act shall not be construed to repeal chapter one hundred and fifty (150) of the General Laws passed at the Sixteenth Session of the Legislative Assembly of the Territory of Dakota.

§ 7. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 71.

INCREASING THE ANNUAL LICENSE FEE.

AN ACT To Amend Section Three, of Chapter Twenty-six, of the General Laws of 1879, Relating to the Sale of Intoxicating Liquors.

Be it Enacted by the Legislative Assembly of the Territory of Dakota.

§ 1. AMENDING SECTION THREE, CHAPTER TWENTY-SIX, SESSION LAWS 1879.] That section three (3) of chapter twenty-six (26) of the General Laws of 1879 be amended by striking out of said section after the words "to be at the rate of not less than" the words "two hundred dollars, nor more than five hundred dollars," and insert in lieu thereof the words "five hundred dollars, nor more than one thousand dollars."

§ 2. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 3. This act shall take effect from and after its passage.

Approved, March 11, 1887.

CHAPTER 72.

LICENSES REGULATED BY CITIES IN CERTAIN CASES.

AN ACT To Amend Section 1, Chapter 26, of the General Laws of 1879.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LICENSE, HOW GRANTED.] That section one of chapter twenty-six of the General Laws of 1879 be amended by adding thereto, "and, *Provided, further,* That intoxicating liquors shall not be sold in any quantities in counties where no license is granted by the board of county commissioners, except as provided for in section thirteen of this chapter; *Provided,* That nothing in this act shall in any manner interfere with or invalidate any license granted by any city council, acting under the authority of a special charter or act granting exclusive authority in the matter of granting licenses for the sale of intoxicating liquors."

§ 2. That all acts or parts of acts in conflict with this act are hereby repealed.

§ 3. That this act shall take effect and be in force from and after its passage and approval.

Approved, February 15, 1887.

INCORPORATION OF CITIES.

CHAPTER 73.

AN ACT To Provide for the Incorporation of Cities.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

ARTICLE 1.—OF THE ORGANIZATION OF CITIES.

§ 1. **How CITY MAY ADOPT THIS ACT.**] That any city now existing in this Territory may become incorporated under this act in the manner following: Whenever one-eighth of the legal voters of such city, voting at the last preceding municipal election, shall petition the mayor and council thereof to submit the question as to whether such city shall become incorporated under this act, to a vote of the electors in such city, it shall be the duty of such mayor and council to submit such question accordingly, and to appoint a time and place, or places, at which such vote may be taken, and to designate the persons who shall act as judges at such election; but such question shall not be submitted oftener than once in two years.

§ 2 **NOTICE OF ELECTION.**] The mayor of such city shall give at least twenty days' notice of such election, by publishing a notice thereof in one or more newspapers within such city; but if no newspaper is published therein, then by posting at least five copies of such notice in each ward or voting precinct.

§ 3. **THE BALLOT—RESULT.**] The ballots to be used at such election shall be in the following form: "For city organization under general law;" or "Against city organization under general law." The judges of such election shall make returns thereof to the city council, whose duty it shall be to canvass such returns and cause the result of such canvass to be entered upon the records of such city. If a majority of the votes cast at such election shall be for city organization under general law, such city shall thenceforth be deemed to be organized under this act; and the city officers then in office shall, thereupon, exercise the powers conferred upon like officers in this act, until their successors shall be elected and qualified.

§ 4. **COURTS TO TAKE JUDICIAL NOTICE OF ORGANIZATION, ETC.**] All courts in this Territory shall take judicial notice of the existence of cities organized under this act, and of the change of the

organization of any city from its original organization to its organization under this act; and from the time of organization, the provisions of this act shall be applicable to such city, and all laws in conflict therewith shall no longer be applicable. But all laws or parts of laws, not inconsistent with the provisions of this act, shall continue in force and applicable to any such city, the same as if such change had not taken place.

§ 5. CORPORATE NAME—POWERS.] Cities organized under this act shall be bodies politic, and corporate, under the name and style of "City of (name)" and under such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, have a common seal, and change the same at pleasure, and exercise all the powers herein-after conferred.

§ 6. RIGHTS ETC., OF OLD CORPORATION TO VEST IN NEW.] All rights and property of every kind and description, which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal incorporation, upon its becoming incorporated under the provisions of this act; but no rights or liabilities, either in favor of or against such corporation, existing at the time of so becoming incorporated under this act, and no action or prosecution of any kind, shall be affected by such change, but the same shall stand and progress as if no change had been made; *Provided*, That when a different remedy is given by this act, which may properly be made applicable to any right existing at the time of such city so becoming incorporated under this act the same shall be deemed cumulative to the remedies before provided, and used accordingly.

§ 7. RECORD OF RESULT OF ELECTION.] The corporate authorities of any city which may become organized under this act, shall within three months after organization hereunder, cause to be filed in the office of the register of deeds, in the county in which such city is situated, a certified copy of the entry made upon the records of the city, of the canvas of the votes, showing the result of such election, whereby such city became so organized, and such register of deeds shall record the same, and such corporate authorities shall also cause a like certificate to be filed in the office of the Secretary of the Territory, who shall file the same, and keep a registry of cities organized under this act.

§ 8. PRIOR ORDINANCES, ETC., IN FORCE UNTIL, ETC.] All ordinances and resolutions in force in any city when it shall organize under this act shall continue in full force and effect until repealed or amended, notwithstanding such change of organization; and the making of such change of organization shall not be construed to effect a change in the legal identity as a corporation of such city.

ARTICLE II.—OF THE MAYOR.

§ 1. MAYOR—HIS QUALIFICATIONS.] The chief executive officer of a city shall be a mayor, who shall be a citizen of the United

States, a qualified elector, reside within the city limits, and hold his office for two years and until his successor is elected and qualified.

§ 2. VACANCY, ONE YEAR OR OVER.] Whenever a vacancy shall happen in the office of the mayor, when the unexpired term shall be one year or over from the date when the vacancy occurs, it shall be filled by an election.

§ 3. VACANCY LESS THAN [ONE] YEAR.] If the vacancy is less than one year, the city council shall elect one of its number to act as mayor, who shall possess all the rights and powers of the mayor until the next annual election, and until his successor is elected and qualified.

§ 4. MAYOR PRO TEM.] During a temporary absence or disability of the mayor, the city council shall elect one of its own number to act as mayor pro tem; who during such absence or disability shall possess the powers of mayor.

§ 5. VACANCY BY REMOVAL FROM CITY.] If the mayor at any time during the term of his office shall remove from the limits of the city, his office shall thereby become vacant.

§ 6. MAYOR TO PRESIDE—CASTING VOTE.] The mayor shall preside at all meetings of the city council but shall not vote except in case of a tie, when he shall give the casting vote.

§ 7. WHEN HE MAY REMOVE OFFICERS.] The mayor shall have power to remove any officer appointed by him, whenever he shall be of the opinion that the interests of the city demand such removal; but he shall report the reasons for such removal to the council at its next regular meeting.

§ 8. HIS POWERS TO KEEP PEACE.] He may exercise within the city limits the powers conferred upon sheriffs to suppress disorder and keep the peace.

§ 9. RELEASE OF PRISONERS.] He may release any person imprisoned for violation of any city ordinance, and shall report such release, with the cause thereof, to the city council at its first session thereafter.

§ 10. GENERAL DUTIES.] He shall perform all such duties as are or may be prescribed by law or by the city ordinances, and shall take care that the laws and ordinances are faithfully executed.

§ 11. POWERS TO EXAMINE RECORDS, ETC.] He shall have power at all times to examine and inspect the books, records and papers of any agent, employee or officer of the city.

§ 12. MESSAGES TO COUNCIL.] The mayor shall, annually, and from time to time, give the council information relative to the affairs of the city, and shall recommend for their consideration such measures as he may deem expedient.

§ 13. To CALL OUT MILITIA, ETC.—RIOTS.] He shall have power, when necessary, to call on every male inhabitant of the city over the age of eighteen years, to aid in enforcing the laws and ordinances, and to call out the militia to aid in suppressing riots, and other disorderly conduct, or carrying into effect any law

or ordinance subject to the authority of the Governor, as commander-in-chief of the militia.

§ 14. MISCONDUCT, ETC., OF MAYOR, OR OTHER OFFICER—PENALTY.] In case the mayor or any other municipal officer shall at any time be guilty of a palpable omission of duty, or shall wilfully and corruptly be guilty of oppression, malconduct, or misfeasance in the discharge of the duties of his office, he shall be liable to indictment in any court of competent jurisdiction, and on conviction, shall be fined in a sum not exceeding \$1,000; and the court in, which such conviction shall be had shall enter an order removing such officer from office.

§ 15. REVISING ORDINANCES AFTER CHANGE OF ORGANIZATION.] He may appoint by and with the advice and consent of the city council, immediately after such change of organization, one or more competent persons to prepare and submit to the city council for their adoption or rejection an ordinance in revision of the ordinances of such city, and for the government of such city, the compensation of such reviser or revisers to be determined and fixed by the city council, and paid out of the city treasury.

§ 16. SIGN OR VETO ORDINANCES.] He shall have power to sign or veto any ordinance or resolution passed by the council.

§ 17. POLICEMEN—CHIEFS.] He shall have power to appoint any number of policemen which he and the city council may deem necessary to preserve the peace of the city, and shall appoint one of the number as chief of police, which appointment of chief shall be subject to the approval of the council.

ARTICLE III.—OF THE CITY COUNCIL.

§ 1. COUNCIL, HOW COMPOSED.] The city council shall consist of the mayor and aldermen.

§ 2. NUMBER OF ALDERMEN.] The number of aldermen shall be as follows: In cities not exceeding two thousand inhabitants, six aldermen; exceeding two thousand but not exceeding four thousand, eight aldermen; exceeding four thousand, and not exceeding ten thousand, twelve aldermen; exceeding ten thousand and not exceeding fifteen thousand, fourteen aldermen; and two additional aldermen for each ten thousand inhabitants over fifteen thousand; *Provided, however,* that in cities of over 100,000 inhabitants, there shall be elected thirty-six aldermen and no more.

§ 3. TERM OF OFFICE.] Aldermen shall hold their office for the term of two years and until their successors are elected and qualified.

§ 4. VACANCY.] If any vacancy shall occur in the office of alderman by death, resignation, removal or otherwise, such vacancy shall be filled by election.

§ 5. QUALIFICATIONS OF ALDERMAN.] No person shall be eligible to the office of alderman unless he shall be a qualified elector, and reside within the ward for which he is elected, nor shall he be

eligible if he is in arrears in the payment of any tax or other liability due to the city, nor shall he be directly or indirectly interested in any contract whatever, to which the city is a party; nor shall he be eligible if he shall have been convicted of malfeasance, bribery, or other corrupt practices or crimes; nor shall he be eligible to any office, the salary of which is payable out of the city treasury, if at the time of his appointment he shall be a member of the city council; nor shall any member of the city council at the same time hold any other office under the city government; nor shall he be either directly or indirectly, individually or as a member of a firm engaged in any business transaction (other than official) with such city through its mayor or any of its authorized boards, agents or attorneys, whereby any money is to be paid directly or indirectly out of the treasury, to such member or firm.

§ 6. COUNCIL JUDGE OF ITS MEMBERS.] The city council shall be judge of the election and qualifications of its own members.

§ 7. RULES—EXPULSIONS—BRIBERY.] It shall determine its own rules of proceeding; punish its members for disorderly conduct, and with the concurrence of two-thirds of the aldermen elect, may expel a member, but not a second time for the same offense; *Provided*, That any alderman who shall have been convicted of bribery shall thereby be deemed to have vacated his office.

§ 8. QUORUM—COMPELLING ATTENDANCE.] A majority of the aldermen elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time and may compel the attendance of absentees under such penalties as may be prescribed by ordinance.

§ 9. MEETINGS.] The city council shall hold its regular meeting on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings thereof may be called.

§ 10. PRESIDENT AND VICE-PRESIDENT OF THE COUNCIL.] It shall, at its first regular meeting after the annual election in each year, proceed to elect from one of its own members, a president and vice-president, who shall hold their respective offices for the municipal year. The president of the council shall be presiding officer of the council, and shall during the absence of the mayor from the city be acting mayor, and shall possess all the powers of the mayor. In the absence or disability of the mayor and president of the council, then the vice-president shall perform the duties of the mayor and president of the council.

§ 11. OPEN DOORS—JOURNAL.] It shall sit with open doors, and shall keep a journal of its own proceedings.

§ 12. YEAS AND NAYS—RECORD VOTE REQUIRED.] The yeas and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the city, or for the ex-

penditure or appropriation of its money and in all other cases at the request of any member, which shall be entered on the journal of its proceedings, and the concurrence of a majority of all the members elected in the city council shall be necessary to the passage of any such ordinance or proposition; *Provided*, It shall require a two-thirds vote of all the aldermen elected to sell any city or school property.

§ 13. RESCINDING VOTE—SPECIAL MEETINGS, ETC.] No vote of the city council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

§ 14. WHEN REPORT LAID OVER.] Any report of a committee of the council shall be deferred for final action thereon to the next regular meeting of the council after the report is made upon the request of any two aldermen present.

§ 15. TERRITORIAL JURISDICTION.] The city council shall also have jurisdiction in and over all places within one-half mile of the city limits, for the purpose of enforcing health and quarantine ordinances, and regulations thereof.

§ 16. ORDINANCES, HOW PASSED, ETC.] All ordinances shall be read twice, and there shall be at least one week intervene between the first and second reading, and, after thus being passed by the city council, shall, before they take effect, be deposited in the office of the city auditor for the approval of the mayor; and if the mayor approves thereof, he shall sign the same, and such as he shall not approve he shall return to the council, with his objections thereto in writing, at the next regular meeting of the city council, occurring not less than five days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance; and in case the veto only extends to a part of such ordinance, the residue thereof shall take effect and be in force. But in case the mayor shall fail to return any ordinance with his objections thereto, by the time aforesaid, he shall be deemed to have approved such ordinance, and the same shall take effect accordingly; *Provided*, That upon the return of any ordinance by the mayor, the vote by which the same was passed may be reconsidered by the council; and if, after such reconsideration, two-thirds of all the members elected to the city council shall agree by yeas and nays to pass the same, it shall go into effect, notwithstanding the mayor may refuse to approve thereof. The vote to pass the same over the mayor's veto shall be taken by yeas and nays and entered on the journal; *Provided, further*, That all ordinances so passed by the council and signed by the mayor, or passed over the mayor's veto, shall be published at least once in the official newspaper of the city, and shall become operative immediately upon such publication. The city auditor shall record in a book kept for that purpose together with the affidavit of the publisher all such ordinances so passed and published; and said

book or a certified copy of the ordinance as so recorded shall be received as evidence in all courts and places without further proof; or if printed in book or pamphlet form by the authority of the city council they shall be so received; and shall be styled: "Be it ordained by the city council."

ARTICLE IV—OF THE POWERS OF THE CITY COUNCIL.

§ 1. **GENERAL POWERS.**] The city council shall have the following powers:

1. To control the finances and property of the corporation.
2. To appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation.
3. To levy and collect taxes for general and special purposes on real and personal property.
4. To fix the amount, terms and manner of issuing and revoking licenses.
5. To borrow money on the credit of the corporation for corporate purposes, and issue bonds therefor, in such amounts and form, and on such conditions as it shall prescribe, but shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate to exceed four (4) per centum on the value of the taxable property therein, to be ascertained by the last assessment for Territorial and county taxes previous to the incurring of such indebtedness; and before or at the time of incurring any indebtedness, shall provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same; *Provided*, No bonds shall be issued by said city council under the provisions of this act either for general or special purposes unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of said city by a majority shall determine in favor of issuing said bonds.
6. To issue bonds in place of, or to supply means to meet maturing bonds, or for the consolidation or funding of the same.
7. To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and public grounds and vacate the same.
8. To plant trees on the same.
9. To regulate the use of the same.
10. To prevent and remove obstructions and encroachments upon the same.
11. To provide for the lighting of the same.
12. To provide for the cleansing of the same.
13. To regulate the openings therein for the laying of gas or water mains and pipes, and the building and repairing of sewers, tunnels and drains, and erecting gas or electric lights; *Provided*, however, That any company heretofore organized under the gen-

eral laws of this Territory or any association of persons organized or which may be hereafter organized for the purpose of manufacturing illuminating gas, or electricity to supply cities, or the inhabitants thereof, with the same, shall have the right, by consent, of the city council (subject to existing rights,) to erect gas or electric light works, and lay down pipes, or string wires on poles, in the streets or alleys of any city in this Territory, subject to such regulations as such city may by ordinance impose.

14. To regulate the use of sidewalks and all structures thereunder; and to require the owner or occupant of any premises to keep the sidewalks in front of, or along the same, free from snow and other obstructions.

15. To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in, and to prevent injury to any street, avenue, alley or public ground.

16. To provide for and regulate crosswalks, curbs, and gutters.

17. To regulate and prevent the use of streets, sidewalks, and public grounds for signs, sign-posts, awnings, telegraph or telephone poles, horse troughs, racks, posting hand bills and advertisements.

18. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or hand bills in the streets or public grounds, or upon the sidewalks.

19. To regulate and prevent the flying of flags, banners or signs across the streets or from houses.

20. To regulate traffic and sales upon the streets, sidewalks and public places.

21. To regulate the speed of horses and other animals, vehicles, cars and locomotives within the limits of the corporation.

22. To regulate the numbering of houses and lots.

23. To name and change the name of any street, avenue, alley or other public place.

24. To permit, regulate or prohibit the locating, constructing or laying a track of any horse railroad in any street, alley, or public place; but such permission shall not be for a longer time than twenty years.

25. To provide for and change the location, grade, and crossing of any railroad.

26. To require railroad companies to fence their respective railroads, or any portion of the same, and construct cattle guards, crossings of streets and public roads, and keep the same in repair within the limits of the corporation.

27. To require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property; to compel such railroad to raise or lower their railroad tracks, to conform to any grade which may, at any time, be established by such city, and where such tracks run lengthwise of any such street, alley, or highway, to keep

their railroad tracks on a level with the street surface, and so that such tracks may be crossed at any place on such street, alley, or highway; to compel and require railroad companies to make and keep open, and to keep in repair ditches, drains, sewers and culverts, along and under their railroad tracks, so that filthy or stagnant pools of water cannot stand on their grounds or right of way, and so that the natural or artificial drainage of adjacent property shall not be impeded.

28. To construct and keep in repair bridges, viaducts and tunnels, and to regulate the use thereof.

29. To construct and keep in repair culverts, drains, sewers, catch basins, man-holes and cesspools, and to regulate the use thereof.

30. To license, tax, regulate, suppress and prohibit hawkers, peddlers, pawnbrokers, keepers of ordinaries, theatricals and other exhibitions, shows and amusements, ticket scalpers and employment agencies, and to revoke such license at pleasure.

31. To license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen, and all others pursuing like occupations, and to prescribe their compensation.

32. To license, regulate, tax and restrain runners for stages, cars, public houses, or other things or persons.

33. To license, regulate, tax or prohibit and suppress billiard, bagatelle, pigeon hole, or any other tables or implements kept or used for a similar purpose in any place of public resort, pin-alleys and ball-alleys.

34. To suppress bawdy or disorderly houses, houses of ill-fame, or assignation, within the limits of the city, and within one mile of the outer boundaries of the city; and also to suppress gaming and gambling houses, lotteries, and all fraudulent devises and practices for the purpose of gambling or obtaining money or property; and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures or illustrations.

35. To license, regulate and prohibit the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquor, the license not to extend beyond the municipal year in which it shall be granted, and to determine the amount to be paid for such license, and shall be subject to the same restrictions as required by the general laws of the Territory and shall require of all persons applying for a license hereunder, a bond in good and sufficient security and with like conditions as required by the general laws of the Territory in this regard; *Provided*, That the council may grant permits to druggists for the sale of liquors for medicinal, mechanical, sacramental and chemical purposes only, subject to forfeiture, and under such restrictions and regulations as may be provided by ordinance; *Provided, further*, That no other or further permit or license shall be required by the county in which

such city is situated to enable such person or persons so licensed, to sell or deal therein within the limits of the corporation; *Provided*, That no license shall be granted under the provisions of this act by any city in a county wherein a majority of the legal voters of said county have decided in favor of no license.

36. The council shall also have power to forbid and punish the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquor to any minor, servant or insane, idiotic or distracted person, habitual drunkard, or person intoxicated.

37. To establish markets and market houses, and provide for the regulation and use thereof.

38. To provide for place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions, and regulate the selling of the same.

39. To regulate the sale of bread in the city and prescribe the weight and quality of the bread in the loaf.

40. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meal and other provisions.

41. To regulate the inspection, weighing and measuring of lumber, firewood, coal, hay, and any article of merchandise.

42. To provide for the inspection and sealing of weights and measures.

43. To enforce the keeping and use of proper weights and measures by vendors.

44. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewer and gutters.

45. To regulate places of amusement.

46. To prevent intoxication, fighting, quarreling, dog fights, cock fights, and all disorderly conduct.

47. To regulate partition fences and party walls.

48. To prescribe the thickness, strength, and manner of constructing stone, brick and other buildings, and construction of fire escapes therein.

49. To prescribe the limits within which wooden buildings shall not be erected or placed or repaired without permission, and to direct that all and any buildings within said limits (which shall be known as the fire limits), when the same shall have been damaged by fire, decay or otherwise, to the extent of fifty per cent. of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damage.

50. To prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers, and apparatus used in and about any building and manufactory, and to cause the same to be removed or placed in a safe condition, where considered dangerous; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places, and to cause all such

buildings and inclosures as may be in a dangerous state to be put in a safe condition.

51. To erect engine houses and provide fire engines, hose carts, hooks and ladders, and other implements for prevention and extinguishment of fires, and provide for the use and management of the same by voluntary fire companies or otherwise.

52. To regulate and prevent storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitro-glycerine, petroleum or any of the products thereof, and other combustible or explosive material, and the use of lights in stables, shops, and other places and the building of bon fires; also to regulate and restrain the use of fireworks, fire crackers, torpedoes, Roman candles, sky rockets, and other pyrotechnic displays.

53. To provide for the inspection of steam boilers.

54. To establish and erect a city jail, house of correction, and work house for the confinement and reformation of disorderly persons, vagrants, tramps, and idle persons, and persons convicted of violating any city ordinance and make rules and regulations for the government of the same, and appoint necessary jailors and keepers.

55. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the county board of commissioners, and to regulate the police of the city, and pass and enforce all necessary police ordinances.

56. To prevent and suppress riots, routs, affrays, noises, disturbances, and disorderly assemblies in any public or private place.

57. To prohibit and punish cruelty to animals.

58. To restrain and punish vagrants, mendicants, and prostitutes.

59. To declare what shall be a nuisance, and to abate the same and impose fines upon parties who may create, continue, or suffer nuisances to exist.

60. To appoint a board of health and prescribe its powers and duties.

61. To erect and establish hospitals and medical dispensaries, and control and regulate the same.

62. To do all acts, make all regulations which may be necessary or expedient for the promotion of health, or the suppression of disease.

63. To establish and regulate cemetaries within or without the corporation, and acquire lands therefor by purchase or otherwise, and cause cemetaries to be removed, and prohibit their establishment within one mile of the corporation.

64. To regulate, restrain, and prohibit the running at large of horses, cattle, swine, sheep, goats, geese, and dogs, and to impose a tax or license on dogs.

65. To direct the location and regulate the management and

construction of packing houses, renderies, bone factories, slaughter houses, soap factories, foundaries, breweries, distilleries, livery stables and blacksmith shops, within, or within one mile of the limits of the corporation.

66. To prohibit any offensive or unwholesome business or establishment within, or within one mile of the limits of the corporation.

67. To compel the owner of any grocery, cellar, stable, pig sty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.

68. To provide for the taking of the city census; but no city census shall be taken oftener than once in three years.

69. To provide for the erection and care of all public buildings necessary for the use of the city.

70. The city council shall have power by condemnation or otherwise to extend any street, alley, or highway over or across or to construct any sewer under or through any railroad track, right of way, or land of any railroad company (within the corporate limits), but where no compensation is made to such railroad company, the city shall restore such railroad track, right of way or land to its former state or in a sufficient manner not to have impaired its usefulness.

71. The city council shall have no power to grant the use of, or right to lay down any railroad tracks in any street of the city, to any steam or horse railroad company except upon a petition of the owners of the land representing more than one-half of the frontage of the street, or so much thereof as is sought to be used for railroad purposes.

72. To tax, license and regulate auctioneers, distillers, brewers, lumber yards, public scales, money changers and brokers.

73. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

74. To regulate and prohibit the keeping of any lumber yard, and the placing, or piling, or selling any lumber, timber, wood or other combustible material within the fire limits of the city.

75. To provide by ordinance that all the paper, printing, stationery, blanks, fuel, and all the supplies needed for the use of the city, shall be furnished by contract, let to the lowest responsible bidder.

76. To tax, license and regulate second-hand and junk stores, and to forbid their purchasing or receiving from minors, without the written consent of their parents or guardians, any article whatever, and to prescribe punishment for any violation hereof.

77. To purchase, erect, lease, rent, manage and maintain any system or part of system of water works, hydrants, and supply of water; telegraphing fire signals, or fire apparatus that may be of

use in the prevention and extinguishment of fires and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected.

78. To redistrict the city into wards and describe the boundaries thereof whenever a census of the city shall show the population to be large enough to require two aldermen more than are in the council, at the time of the time of taking of such census.

79. To pass all ordinances, rules and make all regulations proper or necessary, to carry into effect the powers granted to cities, with such fines or penalties as the city council shall deem proper; *Provided*, No fine or penalty shall exceed one hundred (100) dollars and no imprisonment shall exceed three months, for one offense.

§ 2. ACTIONS FOR VIOLATING ORDINANCES.] All actions brought to recover any fine or to enforce any penalty, under any ordinance of any city, shall be brought in the corporate name of the city as plaintiff; and no prosecution, recovery or acquittal, for the violation of any such ordinance, shall constitute a defense to any other prosecution of the same party for any other violation of any such ordinance although the different causes of action existed at the same time, and if united would not have exceeded the jurisdiction of the court or justice of the peace.

§ 3. FINES AND LICENSES PAID TO THE CITY TREASURER.] All fines and forfeitures for the violation of ordinances, when collected, and all moneys collected for licenses or otherwise, shall be paid into the treasury of the corporation at such times and in such manner as may be prescribed by ordinance; *Provided*, That one-third of the moneys received for licensing the sale of malt, spirituous and vinous and intoxicating or fermented liquors, shall, when collected, be paid to the county treasurer to be placed to the credit of the county general fund.

§ 4. SUMMONS—AFFIDAVIT — PUNISHMENT.] In all actions for the violation of any ordinance, the first process shall be a summons; *Provided, however*, That a warrant for the arrest of the offender, may issue in the first instance upon the affidavit of any person that any such ordinance has been violated: and that the person making the complaint, has reasonable grounds to believe the party charged is guilty thereof; and any person arrested upon such warrant shall without unnecessary delay be taken before the proper officer to be tried for the alleged offense. Any person upon whom any fine or penalty shall be imposed may upon the order of the court before whom the conviction is had, be committed to the county jail, city prison, work house, house of correction or other place provided by the city, for the incarceration of offenders, until such fine, penalty and cost shall be fully paid; *Provided*, That no such imprisonment shall exceed three months, for any one offense. The city council shall have power to provide by ordinance, that every person so committed, shall be required

to work for the corporation, at such labor, as his or her strength will permit, not exceeding ten hours, each working day; and for such work, the person so employed, to be allowed, exclusive of his or her board \$1.25 for each day's work, on account, of such fine and cost.

§ 5. JURISDICTION, ETC.] The city justice of the peace shall have exclusive jurisdiction in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof.

§ 6. WHO MAY SERVE PROCESS, ETC.] Any constable or sheriff of the county, may serve any process, or make any arrests authorized to be made by any city officer.

ARTICLE V.—OFFICERS, THEIR POWERS AND DUTIES.

§ 1. ELECTIVE OFFICERS.] There shall be elected in all cities organized under this act, the following officers: A mayor, two aldermen from each ward, a city treasurer, and a city justice of the peace.

§ 2. TERM OF OFFICE.] The elective officers of a city shall hold their respective offices for two years, and until their successors are elected and qualified.

§ 3. APPOINTIVE OFFICERS.] There shall be appointed by the mayor, with the approval of the city council, a city auditor, a city assessor, a city attorney, and a city engineer, and such other officers as may by the city council be deemed necessary or expedient.

§ 4. TERM OF OFFICE.] The appointive officers of a city shall hold their respective offices for two years, and until their successors are appointed and qualified.

§ 5. OATH—BOND.] All officers of any city, whether elected or appointed, shall, before entering upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the Organic Act of the Territory of Dakota, and that I will faithfully discharge the duties of the office of , according to the best of my ability." Which oath or affirmation, so subscribed, shall be filed in the office of the city auditor, and all such officers, except aldermen, shall, before entering upon the duties of their respective offices, execute a bond with security, to be approved by the city council, payable to the city, in such penal sum as may by resolution or ordinance be directed, conditioned for the faithful performance of the duties of the office, and the payment of all moneys received by such officer according to law and the ordinance of said city; *Provided, however,* That in no case shall the mayor's bond be fixed at a less sum than three thousand (3,000) dollars; nor shall the treasurer's bond be fixed at less sum than the amount of the estimated tax and special assessments for the current year, which bonds shall be filed with the city auditor (ex-

cept the bond of the city auditor,) which shall be filed with the treasurer.

§ 6. COMMISSION, CERTIFICATES, DELIVERY TO SUCCESSORS.] All officers elected or appointed under this act, (except the city auditor, aldermen and mayor,) shall be commissioned by warrant, under the corporate seal, signed by the auditor and mayor or president of the city council. The mayor shall issue a certificate of appointment, under the seal of the corporation, to the auditor thereof, and any person having been an officer of the city, shall within five days after notification and request, deliver to his successor in office, all property, books and effects, of every description in his possession, belonging to the city, or appertaining to his said office; and upon his refusal to do so, shall be liable for all the damages caused thereby, and to such penalty as may by ordinance be prescribed.

§ 7. QUALIFICATION OF OFFICERS.] No person shall be eligible to any office, who is not a qualified elector of the city, and who shall not have resided therein at least nine months next preceding his election or appointment, nor shall any person be eligible to any office who is a defaulter to the corporation.

§ 8. NOT INTERESTED IN CONTRACTS, ETC.] No officer shall be directly or indirectly interested in any contract, work or business of the city, or the sale of any article, the expense, price or consideration of which is paid from the treasury, or by any assessment levied by any act or ordinance; nor in the purchase of any real estate or other property belonging to the corporation, or which shall be sold for taxes or assessments or by virtue of legal process at the suit of said corporation, mayor, etc.

§ 9. NOT TO HOLD OTHER OFFICE.] No mayor, alderman, city auditor or treasurer shall hold any other office under the city government during his term of office.

§ 10. COMPENSATION OF MAYOR.] The mayor of any city shall receive such compensation as the city council may by ordinance direct; but his compensation shall not be changed during his term of office.

§ 11. COMPENSATION OF ALDERMEN.] The aldermen may receive such compensation for their services as shall be fixed by ordinance; *Provided, however,* Such compensation shall not exceed two dollars to each alderman for each meeting of the city council actually attended by him, and no other compensation than for attendance upon such meeting shall be allowed to any alderman for any services whatsoever; such compensation shall not be changed, after it has been once established, so as to take effect as to any alderman voting for such change during his term of office.

§ 12. COMPENSATION OF OTHER OFFICERS.] All other officers may receive a salary, fees, or other compensation to be fixed by ordinance and after the same has been once fixed, such fees or compensation shall not be increased or diminished, to take effect

during the term for which any such officer was elected or appointed.

§ 13. **ADMINISTERING OATHS.**] The mayor and auditor of any city, shall have power to administer oaths and affirmations upon all lawful occasions.

ARTICLE VI.—CITY AUDITOR.

§ 1. **DUTIES OF AUDITOR.**] The city auditor shall keep his office at the place of meeting of the city council or some other place convenient thereto as the council may direct; he shall keep the corporate seal, and all the papers, and records of the city, and keep a record of the proceedings of the city council whose meetings it shall be his duty to attend, copies of all papers filed in his office, and transcript from all records of the city council certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose.

§ 2. **SAME.**] The city auditor shall report to the city council on the first days of March and September of each year the receipts and expenses, and financial condition of the city, which report shall be published within thirty days thereafter, in the official paper of the city, or such other paper as the council may direct. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the city council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually on or before the first day of September to the city council an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year, and the fiscal year shall commence on the first day of September.

§ 3. **SAME.**] He shall make, or cause to be made, estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the city council, or by any city officers. And every contract made in behalf of the city, or to which the city is a party, shall be void unless signed by the auditor; the city auditor shall keep regular books of account, in which he shall enter all indebtedness of the city, and which shall at all times show the financial condition of the city, the amount of bonds, orders, certificates or other evidences of indebtedness issued by the city council, the amount of all bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof stating to whom, and for what purpose issued and the amount

thereof; to keep accounts with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the city council. He shall keep a list of all certificates issued for work or any other purpose, and before the levy by the city council of any special tax upon the property in the city, or any part thereof, shall report to the city council a schedule of all parcels, lots or parcels of land, which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which said schedule shall be certified by the affidavit of the auditor, and shall be prima-facie evidence of the facts stated therein, in all cases wherein the validity of such special tax or assessment shall come in question. The city council shall, if from such reports they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If before the first day of June of any year the amount expended, or to be expended, chargeable to any city fund (adding thereto the current expenses estimated for the remainder of the fiscal year, and chargeable to such fund), shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report at once the same to the city council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract, the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The auditor shall examine all reports, books, papers, vouchers and accounts of the city treasurer, and, from time to time, shall perform such other duties as the city council may direct. All claims and demands against the city, before they are allowed by the city council, shall be audited and adjusted by the auditor, and he shall keep a record of his acts and doings, and keep a book, in which he shall enter all contracts, with an index thereto; such book shall be opened to the inspection of all parties interested.

ARTICLE VII.—CITY ATTORNEY.

§ 1. DUTIES OF.] The city attorney shall perform all professional services incident to his office, and when required shall furnish opinion upon any subject submitted to him by the city council or its committees.

ARTICLE VIII.—CITY TREASURER.

§ 1. DUTIES OF.] The city treasurer shall receive all moneys belonging to the city including all taxes, license money and fines; and collect all special assessments as hereinafter provided, and keep accurate and detailed account thereof in such manner as provided in this act, or as the city council may from time to time di-

rect. He shall have a settlement with the auditor, at the end of every month, and turn over all warrants, interest coupons, bonds or other evidences of indebtedness of the city which may have been redeemed by him during the month, taking the receipt of the auditor therefor, and all such warrants, orders or other evidences of indebtedness shall be canceled by him and have written or stamped thereon the date of their payment or redemption.

§ 2. HOW MONEYS PAID OUT.] Unless otherwise ordered by the council or provided for in this act, no moneys shall be paid out by the treasurer except upon the warrant of the mayor, countersigned by the auditor, except bonds and interest coupons, which, when due, may be paid upon presentation, or in case the same are payable at some other place than the city organized under this act, then the money for their redemption shall be sent to the place where they are payable in time to meet such payment when due.

§ 3. CITY WARRANTS.] All warrants shall be paid in the order in which they are presented, and the treasurer shall note upon the back of each warrant presented to him the date of such presentation, and when payment is made, the date of such payment; *Provided*, That any warrant shall be paid by the treasurer in case a sufficient amount of money shall remain in the treasury to pay all warrants presented previous to such warrant. Any violation of the provisions of this section on the part of the treasurer shall be sufficient ground for his removal from office by the mayor and council.

§ 4. TREASURER TO KEEP SEPARATE ACCOUNTS.] The treasurer shall keep a separate account of such fund or appropriation, and the debts and credits belonging thereto.

§ 5. TREASURER TO GIVE DUPLICATE RECEIPTS.] The treasurer shall give every person paying into the city treasury a duplicate receipt therefor, specifying the date of payment, and upon what account paid; and he shall also file copies of such receipts with the auditor at the date of his monthly report.

§ 6. TREASURER PROHIBITED FROM USING CITY MONEYS—PENALTY.] The treasurer shall keep all moneys in his hands belonging to the city separate and distinct from his own moneys; and he is hereby expressly prohibited from using either directly or indirectly the corporation money or warrants in his custody and keeping, for his own use and benefit, or that of any other person or persons whomsoever; and any violation of this provision shall subject him to immediate removal from office by the mayor and city council, and upon conviction thereof, they are hereby authorized to declare such office vacant; and the city council shall appoint a successor for the term unexpired of the officer so removed.

§ 7. TREASURER'S REPORT—WARRANT REGISTER.] The treasurer shall report to the city council at such time as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures during and since his last report, and the

state of the treasury. He shall also keep a register of all warrants redeemed and paid during the year, describing such warrants, their date, amount, number, the fund from which paid, and person to whom paid, specifying also the time of payment; and all such warrants shall be examined by the finance committee of the council, at the time of making such report.

§ 8. SPECIAL ASSESSMENTS.] All moneys received on any special assessment shall be held by the treasurer as a special fund, to be applied to the payment of the improvement for which the assessment was made; and said money shall be used for no other purpose whatever.

ARTICLE IX—CITY ASSESSOR AND BOARD OF EQUALIZATION— TAX LEVY—TAXES HOW COLLECTED.

§ 1. CITY ASSESSOR—DUTIES OF.] The city assessor shall perform all duties in relation to the assessing of property for the purpose of levying of all city, county and Territorial taxes. Upon the completion of the assessment roll he shall return the same to the city auditor, who shall lay the same before the board of review or equalization at their regular meeting.

§ 2. LAWS AND REGULATIONS GOVERNING CITY ASSESSOR.] The assessor shall be governed by the same laws and regulations as county and township assessors, and shall return his assessment roll on or before the second Tuesday in June of each year. Said assessment roll shall be opened to the inspection of all persons interested until the meeting of the board of review or equalization.

§ 3. BOARD OF EQUALIZATION—MEETS WHEN.] The board of equalization shall be composed of the city council, and auditor, and shall meet on the third Tuesday of June in each year. In the absence of the mayor, the council shall elect one of its own number to preside. The city auditor shall act as clerk of said board, and keep an accurate record of all changes made in the valuation and of all other proceedings. They may adjourn from day to day until their work is completed, and a majority of the whole board shall constitute a quorum to transact business. If no quorum is present the clerk may adjourn from day to day and publicly announce the time to which the meeting is adjourned.

§ 4. DUTIES OF BOARD.] The board of equalization shall meet at the time fixed in this act at the usual place of meeting of the city council, and shall proceed to equalize and correct such assessment roll. They may change the valuation and assessment of any real and personal property upon the roll, by increasing or diminishing the assessed valuation thereof as shall be reasonable and just to render taxation uniform; *Provided*, That the valuation of any personal property, as returned by the assessor, shall not be increased more than twenty-five per cent. without first giving the owner or his agent notice of the intention of the board to so increase it; such notice shall be by personal notice served upon

the owner or his agent, or by leaving a copy at his place of business or last place of residence, and shall state the time when the board will be in session to act upon the matter.

§ 5. OTHER DUTIES.] The board of equalization must place upon and add to the assessment roll any property, real or personal, subject to taxation, which has been omitted therefrom by the owner or by the assessor, and enter the same at a valuation so that it will bear an equal and just proportion of taxation. During the session of said board any person, or his attorney or agent, feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any alleged errors in the listing or valuation of his property, whether real or personal, and the board may correct the same as they may deem just; or if the board have reason to believe that any person has failed to return to the assessor all personal property required by law to be returned, or if any person refuse to swear to the returns so made, the board shall notify the person who has so failed to make return, or refused to swear to the return in the same manner as prescribed in section four of this article, and may examine each person on oath in regard to such property; or if he refuse to appear they may fix such valuation at a sum which they shall deem just.

§ 6. DUTY OF CITY AUDITOR.] Within ten days after the completion of the equalization of the assessment as herein provided, the city auditor shall deliver the same to the county auditor of the county in which such city is situated, with the certificate that the same is correct as equalized by said board of equalization, and the same shall be accepted by the board of county commissioners of such county in lieu of all other assessment rolls for said property in said city subject to equalization.

§ 7. TAX LEVY—HOW—AND WHEN.] The city council shall at the first regular meeting in September or within ten days thereafter, levy a tax for general purposes sufficient to meet the expenses of the year, based upon estimates furnished by the city auditor or a committee of the city council, and in addition thereto an addition for the interest and sinking fund as required by this act, and such levy shall be certified forthwith to the county auditor of the county in which such city is situated, together with the amount levied by the board of education of such city, if any. This levy shall be in the form of a certain number of mills on the dollar of valuation. The auditor of such county shall extend the same upon the tax roll of the county with, and in the same manner as other taxes are extended, except that the city tax may be included in one amount and the school tax in one amount, for each person, lot or parcel of land.

§ 8. DUTY OF COUNTY TREASURER.] The county treasurer of such county shall collect and enforce the collection of the city and school tax with and in the same manner as other taxes and shall pay over to the city treasurer, on the first of every month on de-

mand, all such taxes so collected during the preceding month, retaining two per cent of such taxes, as his commission for collecting the same, (and shall forthwith notify the city auditor of the amounts so paid over.) He shall take duplicate receipts for all such amounts so paid to the city treasurer, one of which shall be forthwith sent to the city auditor.

§ 9. MONEY PAID TO CITY TREASURER—HOW APPORTIONED.] The city treasurer and auditor shall each apportion said amounts so received by the city treasurer, and credit each fund with its proportion or share according to the levy made, by the council, and the county treasurer at the time of paying over such funds shall furnish the city treasurer and auditor with a statement of the amount collected for each year separately.

ARTICLE X—CITY JUSTICE OF THE PEACE.

§ 1. JURISDICTION OF CITY JUSTICE.] The city justice of the peace shall have exclusive jurisdiction, and it shall be his duty to hear, try and determine all offences against the ordinances of the city; and he shall have concurrent jurisdiction with other justices of the peace, in the county, in all other cases, civil and criminal; *Provided*, That all fines, penalties and forfeitures, for the violation of any city ordinance, when tried before the city justice of the peace, shall, when collected, be paid by the officer receiving the same, to the city treasurer of such city.

§ 2. WHEN JUSTICE SHALL ISSUE WARRANTS.] Whenever complaint shall be made to the city justice of the peace upon oath or affirmation of any person competent to testify against the accused, that an offense has been committed, of which the city justice of the peace has jurisdiction, such justice shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the chief of police or the sheriff or any constable of the county, or some person especially appointed by said justice for such purpose.

§ 3. JUSTICE, WHEN TO HEAR COMPLAINT.] When any person shall be brought before the said justice upon such warrant, it shall be his duty to hear and determine the complaint alleged against the defendant.

§ 4. POSTPONEMENT OF TRIALS.] Upon good cause shown such justice may postpone the trial of the case to a day certain, in which case he shall require the defendant to enter into recognizance with sufficient security, conditioned that he will appear before such justice, at the time and place appointed, and then, and there answer the complaint alleged against him.

§ 5. SUMMONS OF WITNESSES.] It shall be the duty of such justice of the peace to summons all persons whose testimony may be deemed material as witnesses on the trial, and enforce their attendance by attachment if necessary; and when a trial shall be continued by said justice, he may verbally notify such witnesses, as may be present at the continuance, to attend

before him, to testify in the cause set for trial; and such verbal notice shall be as valid as a summons.

§ 6. TRIALS—HOW GOVERNED.] All trials before the said justice, for misdemeanors arising under the laws of the Territory, shall be governed by the criminal procedure applicable to justices' courts in like cases.

§ 7. CONCERNING JUDGMENT ON CONVICTION.] In all trials for offenses under the ordinances of said city, if the defendant is found guilty, said justice shall render judgment accordingly. It shall be a part of the judgment that the defendant stand committed until such judgment be complied with; in no case to exceed one day for every one dollar and twenty-five cents fine and costs assessed against said defendant.

§ 8. COURT, WHEN TO BE OPEN.] Said justice shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear and determine any and all cases cognizable before him; and shall have power to bring parties forthwith before him for trial; and no act shall be performed by him on Sunday except to receive complaints, issue process, and take bail, and receive verdicts.

§ 9. CONCERNING APPEALS.] In all cases before the said justice, arising under the ordinances of the city, an appeal may be taken by the defendant to the district court of the county; but no appeal shall be allowed unless such defendant shall (in case of fine) within ten days (and in case of imprisonment) within twenty-four hours, enter into recognizance with sufficient security, to be approved by said justice, conditioned in case of fine for the payment of said fine and costs, and costs of appeal, and in case of judgment or imprisonment that he will render himself in execution thereof, if it should be determined against the appellant.

§ 10. JUSTICE NOT TO REMIT FINES.] Any person convicted before the said justice of an offense under the ordinances of the city, shall be punished by fine and imprisonment, as may be regulated by ordinance, and under no circumstances shall such justice remit fines or penalties, or payment of costs or otherwise.

§ 11. WHO TO ACT IN CASE OF DEATH OF CITY JUSTICE.] In case of vacancy in the office of city justice by death, resignation, or otherwise, the city council shall call a special election to fill such vacancy until the next annual election or until his successor is elected and qualified, and in case of temporary absence, interest or disability to perform his duties, it shall be the duty of any acting justice of the peace within the city who shall be designated by the mayor to act as city justice during such vacancy, absence or disability in the trial of causes cognizable before said justice.

§ 12. DUTY OF JUSTICE WHEN PROSECUTION MALICIOUS.] If upon any trial under the provisions of this act, it shall appear to the satisfaction of the city justice, or the jury, (in cases arising under the laws of the Territory), that the prosecution was com-

menced without probable cause, or from malicious motives, the jury or justice trying the case shall state the name of the complaining witness in the findings, and shall impose the costs of the prosecution upon him, and judgment shall be rendered against such complaining witness, that he pay such costs, and stand committed until the same are paid.

§ 13. POWER OF JUSTICE—BILL OF EXCEPTIONS—JURY.] The city justice of the peace shall have power to enforce due obedience to all orders, rules, judgments and decrees made by him, and he may fine or imprison for contempt offered to him while holding his court, or to process issued or orders made by him, in the same manner and to the same extent as provided for justices' courts. On the trial of any case in said court it shall be the duty of the city justice to sign any bill of exceptions rendered to the court during the progress of such trial; *Provided*, The truth of the matter be fairly stated, and thereupon said exceptions shall be entered in the record of such trial and become a part thereof; and any final conviction, sentence or judgment of said court may be examined by the district court on writ of error, which may be allowed by said district court, or the judge thereof, for sufficient cause, and proceedings may be stayed, as may be deemed reasonable, and the revising court shall in such proceedings take judicial notice of all the ordinances of said city. Cases before the city justice arising under the city ordinances shall be tried and determined by the justice without the intervention of a jury, except in cases where, under the provisions of the ordinances of the city, imprisonment for a longer period than ten days is made a part of the penalty, or the maximum fine shall be twenty dollars or over, and the defendant shall demand a trial by jury before the commencement of such trial; and when a demand shall be so made it shall be the duty of said justice to write down the names of eighteen persons, residents of the city, and having the qualifications of jurors in the district court, and the defendant and the attorney for the city shall each strike off three names, or, in case the defendant shall neglect or refuse so to do, then the city justice with the attorney for the city, shall strike off such names, and the said justice shall at once issue his venire to the chief of police commanding him to summon the twelve persons whose names remain upon the list as jurors. And in all trials by jury in said court challenges shall be allowed in the same manner and for the same causes as in the district court, in cases of misdemeanor; and in case the number shall be reduced below twelve by such challenges, or any portion of said number shall fail to attend, then the chief of police, shall summon in a sufficient number of talesmen, having the qualifications of jurors to complete the panel, which shall in all cases consist of twelve jurors. If either party objects to the competency of a juror, the question thereon must be tried in a summary manner by the said justice, who may examine the juror

or other witnesses under oath. Each and every person summoned as a juror in any case shall be entitled to a fee of fifty cents, and, in case of conviction, such fees shall be taxed against the defendant as a part of the costs of the case.

§ 14. PROCEEDINGS—HOW GOVERNED.] In all cases, not herein specially provided for, the process and proceedings of said court shall be governed by the laws regulating proceedings in justices' courts in criminal cases.

§ 15. OFFICE HOURS OF JUSTICE.] Said justice shall be in attendance at his office for the transaction of business at such reasonable hours as the city council may prescribe, and complaints may be made to, and writs and process issued by them at all times in court or otherwise.

ARTICLE XI.—CITY ENGINEER.

§ 1. QUALIFICATIONS OF.] The city engineer shall be a practical surveyor and engineer. He shall keep his office in some convenient place in such city, and the council shall by ordinance prescribe his duties, and fix his compensation for services performed for the city. All surveys, profiles, plans or estimates, made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the engineer, open to inspection of all persons interested; and the same, together with all the books and papers appertaining to said office shall be delivered over by the engineer, at the expiration of his term of office, to his successor or the city council.

ARTICLE XII—CHIEF OF POLICE—POLICE OFFICERS.

§ 1. POWERS OF CHIEF OF POLICE AND POLICE OFFICERS.] The chief of police shall perform such duties as shall be prescribed by the city council for the preservation of the peace. All police officers, and watchmen of any city, shall possess within the city limits, the powers of constables, by the laws of this Territory, and it shall be their duty to execute and serve all warrants, process, commitments and all writs whatsoever issued by the city justice of the peace, for any violation of the laws of the Territory of Dakota, or of the ordinances of said city, or any provisions of this act; and also all writs and process whatsoever issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the Territory, and when performing the duties aforesaid, shall be entitled to the same fees as constables, for like service; watchmen shall have authority to arrest and detain any person guilty of any breach of the peace or any violation of the laws of the Territory, or of the ordinances of the city, and for these purposes shall possess the powers of constables, under the laws of this Territory, while on duty.

§ 2. WARRANTS.] All warrants issued by the city justice for the violation of any general law of this Territory shall run to the

sheriff or any constable of the county, or to the chief of police or any policeman of the city; but no chief of police or policeman, where he goes outside of the city to make an arrest, shall receive any fees therefor unless the commissioners of the county are satisfied that a delay in obtaining the sheriff or his deputy, or a constable, to make the arrest might endanger an escape.

ARTICLE XIII.—ELECTIONS.

§ 1. TIME AND PLACE OF.] There shall be an annual election for elective officers herein provided, held on the first Monday in April, of each and every year, at such place or places in each ward as the council shall designate, and the polls shall be kept open continually from nine o'clock in the forenoon until four o'clock in the afternoon and no longer, and ten days previous notice shall be given by the council of the time and place of holding such election, by publication in at least two of the city papers published in said city, if two shall be published therein.

§ 2. ELECTION DISTRICTS AND PRECINCTS.] Each ward shall constitute an election district; but whenever the number of legal voters in any ward shall exceed five hundred, the council may by ordinance, divide such ward into two or more precincts for voting purposes, and whenever the number of legal voters in any two or more contiguous wards shall not exceed one hundred, as determined by the last annual election, the council may by ordinance consolidate such two or more wards into one precinct for voting purposes; *Provided*, Such ordinance shall be passed and take effect before time of giving notice of an election, and said wards and precincts shall be and are hereby made election districts for all Territorial and county elections.

§ 3. QUALIFIED VOTERS.] Every legal voter of the county in which such city is situated, who shall have been a resident of the city thirty days next preceding a city election is declared a citizen of said city and shall be entitled to vote at all city elections; *Provided*, That the city council shall provide for the registration of all voters as required by the laws of the Territory; and no person shall be entitled to vote in any other place than the ward or precinct where he resides.

§ 4. BOARD OF ALDERMEN DIVIDED INTO TWO CLASSES.] At the first election under this act, there shall be elected the full number of aldermen to which the city shall be entitled. At the first meeting of the city council after such election, the aldermen elected shall be divided, by lot, into two classes, those of the first class shall continue in office for one year, and those of the second for two years.

§ 5. OATHS AND DUTIES OF JUDGES AND CLERKS OF ELECTIONS.] The manner of conducting and voting at elections to be held under this act, and contesting the same, the keeping of poll lists and canvassing the votes, shall be the same, as nearly as may be, as in the case of the election of county officers under the general laws

of this Territory. The judges of elections shall appoint clerks when necessary to fill vacancies, and the judges and clerks shall take the same oath and have the same powers and authority as the judges and clerks of general Territorial elections. After the closing of the polls, the ballots shall be counted and the returns made out and returned, under seal, to the city auditor, within two days after the election, and thereupon the city council shall examine and canvass the same, and declare the result of the election and cause a statement thereof to be entered on its journal.

§ 6. JUDGES OF ELECTION—HOW APPOINTED.] The city council shall at its regular meeting, next preceding the annual election, appoint three judges for each precinct, or voting place, who shall act as judges of election for such precinct; *Provided*, That no candidate for office at such election shall act as judge or clerk.

§ 7. WHAT ELECTS—TIE—HOW DECIDED.] The person having the highest number of votes for any office, shall be declared elected. In case of a tie in the election of any city officer, it shall be determined by lot, in presence of the city council, in such manner as they shall direct, which candidate or candidates shall hold office.

§ 8. CITY AUDITOR TO NOTIFY OFFICERS ELECTED OR APPOINTED.] It shall be the duty of the city auditor within five days after the result of the election is declared, or appointment made, to notify all persons elected or appointed to office, of their election or appointment, and unless such persons shall respectively qualify in ten days after such notice, the office shall become vacant.

§ 9. NEW ELECTION ON FAILURE TO QUALIFY.] If there is a failure to elect any officer herein required to be elected, or the person elected should fail to qualify, or for any other cause that may arise, the city council may forthwith order a new election therefor, and in all cases when necessary for the purposes of this act may call special elections, appoint judges thereof, canvass the returns thereof, and provide by ordinance for the mode of conducting the same; and shall give notice of such special elections, in which shall be stated the questions to be voted upon, and cause such notices to be published for the same length of time, and in the same manner, as is required in the case of regular annual elections in such city.

§ 10. WHEN TERM OF OFFICE COMMENCES.] The term of every officer elected under this act shall commence on the third Tuesday of April of the year for which he was elected.

§ 11. BECOMING VACANT—WHEN.] Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the city council shall proceed to fill the vacancy as herein prescribed.

ARTICLE XIV—FINANCE.

§ 1. FISCAL YEAR.] The fiscal year of each city organized under this act shall commence on the first day of September of each year.

§ 2. GENERAL APPROPRIATION—HOW MADE.] The city council shall at their regular meeting in September of each year, or within ten days thereafter, pass an ordinance, to be termed the annual appropriation bill, in which such corporate authorities may appropriate such sum or sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such corporation; and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose. No further appropriations shall be made at any other time within such fiscal year, unless the proposition to make each appropriation has been first sanctioned by a majority of the legal voters of such city, either by a petition signed by them, or at a general or special election duly called for that purpose.

§ 3. SPECIAL APPROPRIATIONS FOR IMPROVEMENTS—HOW MADE.] The city council, nor any department or officer of the corporation, shall add to the corporation expenditures in any one year anything over and above the amount provided for in the annual appropriation bill of that year, except as is herein otherwise specially provided; and no expenditure for an improvement to be paid for out of the general fund of the corporation shall exceed in any one year the amount provided for such improvement in the annual appropriation bill; *Provided, however,* That nothing herein contained shall prevent the city council from ordering, by a two-thirds vote, any improvements the necessity of which is caused by any casualty or accident happening after such annual appropriation is made. The city council may order the mayor and finance committee to borrow a sufficient amount to provide for the expense necessary to be incurred in making any improvements, the necessity of which has arisen as is last above mentioned, for a space of time not exceeding the close of the next fiscal year, which sum, and interest, shall be added to the amount authorized to be raised in the next general tax levy, and embraced therein. Should any judgement be obtained against the corporation, the mayor and finance committee, under the sanction of the city council, may borrow a sufficient amount to pay the same, for a space of time not exceeding the close of the next fiscal year, which sum and interest shall in like manner be added to the amount authorized to be raised in the general tax levy of the next year, and embraced therein.

§ 4. CONTRACTS—HOW MADE.] No contract shall be hereafter made by the city council, and no expense shall be incurred by any officers of departments of the corporation, whether the object of the expenditures shall have been ordered by the city council or not, unless an appropriation shall have been previously made,

concerning such expense, except as herein otherwise expressly provided.

ARTICLE XV.—LOCAL IMPROVEMENTS—SPECIAL ASSESSMENT.

§ 1. CITY COUNCIL MAY ASSESS.] The city council shall have power to make assessments for local improvements on property adjoining or benefitted thereby, and collect the same in the manner hereinafter provided, and to fix, determine and collect penalties for nonpayment of any special assessment and taxes.

§ 2. COMMISSIONERS OF LOCAL IMPROVEMENTS—HOW APPOINTED.] The council upon ordering any improvements, to be paid for by special assessment, shall appoint three commissioners who shall be disinterested free holders and qualified voters of the city, to view the premises and assess the damages which may be occasioned by the taking of private property, or any other damage arising from the making of such improvement. Such commissioners shall be notified as soon as practicable by the city auditor, to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties, and in case any such commissioners upon being so notified shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to the city, not exceeding fifty dollars, and shall be liable to be prosecuted therefore before the city justice, as in the case of fines imposed for the violation of an ordinance of said city, and in case one only of said commissioners shall so neglect or refuse to attend, the two remaining commissioners shall fill the vacancy, in all other cases the vacancy shall be filled by the council.

§ 3. COMMISSIONERS TO QUALIFY BEFORE CITY AUDITOR, AND REPORT.] The commissioners shall be sworn by the city auditor to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their action and doings to the city council.

§ 4. DUTIES OF LOCAL IMPROVEMENT COMMISSIONERS.] The said commissioners shall with all reasonable speed, with the assistance of the city engineer of such city, cause a survey and plat of the proposed improvement, to be made and filed with the city auditor, exhibiting as far as practicable the land or parcels of property required to be taken, or which may be damaged thereby; and shall thereupon give notice by publication in the official newspaper of said city for at least ten days, to the effect that such plat has been filed, and that said commissioners will meet at a place and time designated by them in such notice, and thence proceed to view the premises and assess the damages for property to be taken, or which may be damaged by such improvement.

§ 5. SAME.] At the time and place mentioned in said notice the said commissioners shall view the premises and may hear any evidence or proof offered by the parties interested, and adjourn from day to day if necessary, for the purpose aforesaid. When this view and hearing aforesaid

shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by said improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such owner or owners, in making such improvements, and in case the making of such improvements should require the removal of any building or otherwise injure any permanent improvements, the said commissioners shall assess the damage separately from the damages to the land upon which they are erected.

§ 6. *SAME.*] If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such persons, or interest, respectively may be awarded to them by the commissioners less the benefit resulting to them, from the improvement; *Provided*, That such person or persons owning such interests, or their authorized agents shall make application to said commissioners, for such division of the award, prior to the filing of their report.

§ 7. *SAME.*] The said commissioners having ascertained and assessed the damages aforesaid, shall make and file with the city auditor a written report to the city council of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the names of the owners if known to them, and also a statement of the costs of the proceedings.

§ 8. *DUTY OF CITY AUDITOR ON REPORT OF LOCAL IMPROVEMENT COMMISSIONERS.*] Upon such report being filed in the office of the city auditor, said city auditor, shall give at least ten days' notice by publication in the official newspaper of such city, to the effect that such assessment has been returned, and that the same will be confirmed by the city council, at a meeting thereof to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. The city council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the assessment, giving due consideration to any objections interposed by parties interested; if the report be not confirmed by the city council, proceedings may be taken anew to assess the damages.

§ 9. *DAMAGES FOR LOCAL IMPROVEMENTS—HOW PAID.*] The damages assessed shall be paid out of the general funds of the city, and shall be paid or tendered or deposited and set apart in the city treasury to and for the use of the parties entitled thereto, within six months of the confirmation of such assessment and

report, and in case the city council should be unable to determine to whom the damages, in any particular case so awarded, should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited by order of the city council in the district court of the county, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claims thereto.

§ 10. PROCEEDINGS WHEN IMPROVEMENTS TO BE MADE—DAMAGES.] Whenever in making such improvement it shall be necessary to remove any building, or any part thereof, the commissioners shall assess the damage to the owner thereof, in case the building be taken, also the damage in case the same should be removed, and the owner thereof shall elect which assessment he will take, by a written notice, to be presented to the city council at the time of the confirmation of the assessment. And in case he or they elect to remove said building the same shall be done within thirty days after such confirmation, and shall thereupon be entitled to the amount so awarded. When such owner shall not have elected to remove such building, or shall have neglected to remove after having so elected, within the prescribed time, such buildings, or so much thereof as may be necessary, upon payment, or depositing the amount of damages so awarded, in manner aforesaid, may then be taken and appropriated, sold or disposed of as the city council may direct, and the same, or the proceeds thereof, shall belong to the city.

§ 11. PARTY AGGRIEVED MAY APPEAL—NO PLEADINGS REQUIRED.] Any person feeling himself aggrieved by the assessment may by notice in writing served on the proper officers of the city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of such county, within twenty days after the confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury as in ordinary cases, but no pleadings shall be required, and the party appealing shall specify in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objection than those specified considered, and a transcript of such report certified by the city auditor, or the original thereof shall be *prima facie* evidence of the facts therein stated, and that such assessment was just and made in conformity to law. The judgment of such court therein shall be final, such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects as appeals from justices of the peace in civil actions.

§ 12. PROFILES—WHERE FILED.] Whenever any public ground, street or alley shall be laid out, widened or enlarged, under the provisions of this act, the city council shall cause an accurate survey and profile thereof to be made, and filed in the office of the city engineer, and also filed in the office of the register of deeds of the county in which such city is situated.

§ 13. PETITION TO VACATE STREETS AND ALLEYS—HOW MADE—PARTY AGGRIEVED MAY APPEAL TO DISTRICT COURT.] No public grounds, streets or alleys, or part thereof within the city shall be vacated or discontinued by the city council except upon a petition of a majority of the owners of property on the line of such public grounds, streets or alleys, resident within the city. Such petition shall set forth the facts and reasons for such vacation accompanied by a plat of such public grounds, streets or alleys proposed to be vacated, and shall be verified by the oath of at least two of the petitioners, and the consent in writing of all the owners of the property adjoining the plat to be so vacated. The city council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed with the city auditor, who shall give notice by publication in the official newspaper of the city for four weeks, at least once in each week, to the effect that such petition has been filed as aforesaid, and stating in brief its object and that said petition will be heard and considered by the council or a committee of them, on a certain day therein specified, not less than ten days from the expiration of such publication. The city council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the matter and shall hear the testimony and evidence of parties interested. The city council thereupon after hearing the same, or upon the report of such committee favoring the granting of such petition, may, by resolution passed by a two thirds vote of all the members, elect to declare such public grounds, streets, alleys or highways vacated; which said resolution before the same shall go into effect shall be published as in the case of ordinances, and thereupon a transcript of such resolution duly certified by the city auditor shall be filed for record and duly recorded, in the office of the register of deeds of the county. Any person aggrieved thereby may within twenty days after publication of such resolution, appeal to the district court of the county, under the same regulations as in the case of opening streets and alleys, and the judgment of the court therein shall be final.

§ 14. RECORDS OF CITY AUDITOR—PRIMA FACIE EVIDENCE OF MATTER THEREIN CONTAINED.] It shall be the duty of the city auditor to keep in his office a record of all proceedings taken in the matter of opening, vacating, paving, or otherwise improving streets and alleys, and after the confirmation of any report mentioned herein, in such matters, said auditor shall carefully record in such record all the proceedings taken in relation to the matters in said report, including all petitions, orders and appointments of commissioners, notices and proofs of publication thereof, and orders and resolutions of the council. And the said record, or a certified transcript thereof, or the original papers, petitions, proofs of publication, orders or resolutions on file in his office

shall be *prima facie* evidence of the facts therein contained in any court or place in this Territory.

§ 15. IMPROVEMENTS OF PUBLIC STREETS, ALLEYS AND GROUNDS—HOW MADE.] When the city council shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain or otherwise improve any street, alley, avenue, lane or highway, or other public grounds within the city limits, for which a special assessment is to be levied as herein provided, the city council shall by resolution declare such work or improvement necessary to be done, and such resolution shall be published for four consecutive weeks, at least once a week, in the official newspaper of the city, and if a majority of the owners of the property liable to be assessed therefor shall not within twenty days after the expiration of such publication file with the city auditor a written protest against such improvement, then the city council shall have power to cause such improvement to be made, and to contract therefor, and to levy and collect the assessment as hereinafter provided, and all work done under this section shall be let by contract to the lowest responsible bidder therefor.

§ 16. ASSESSMENTS FOR IMPROVEMENTS—HOW MADE.] Whenever any work or improvement mentioned in the preceding section shall have been determined upon, and the contract let therefor, the city engineer shall forthwith calculate the amount to be assessed for such improvement for each lot or parcel of ground abutting or abounding upon such improvement. And in estimating the assessment he shall take the entire cost of such improvement and divide the same by the number of feet fronting or abutting upon the same, and the quotient shall be the sum to be assessed per front foot so abounding or abutting, and said estimate shall be filed with the city auditor, and shall be presented to the city council for their approval at the first meeting held thereafter. And the city auditor shall cause said estimate of the city engineer, together with a notice of the time and place when the council will meet to approve of the same, to be published in the official newspaper of the city, for at least ten days prior to the meeting of the city council, to approve the same.

§ 17. ASSESSMENTS—HOW PAID—PENALTY FOR NON-PAYMENT FOR LOCAL IMPROVEMENTS.] After said estimate provided in section sixteen shall have been so approved, the auditor shall forthwith make, or cause to be made, an assessment roll describing the property so assessed, with the name of the owner, if known, and the amount assessed to each lot, piece or parcel of ground, as approved by the city council, and attach thereto a copy of the resolution of the city council approving of the same, and certify that the same is correct, and shall file the same with the city treasurer for collection. The city treasurer shall publish said list three successive weeks, at least once in each week, in the official newspaper of the city, together with a notice that a penalty of ten per cent. will be added thereto if the same is not paid within thirty

days after the date of the first publication, stating the time when such penalty shall accrue.

§ 18. GRADE OF STREETS—HOW ESTABLISHED—RECORD TO BE KEPT BY CITY ENGINEER.] The city council may by ordinance establish the grade of all streets, alleys, and sidewalks in the city, as the convenience of the inhabitants may require, and a record of the same shall be kept together with the profile thereof in the office of the city engineer.

§ 19. SIDEWALKS—WIDTH OF—HOW ESTABLISHED—CONTRACTS FOR BUILDING—HOW MADE.] The city council shall by ordinance prescribe the width of sidewalks, and may establish different widths in different locations, and determine the kind of material of which they shall be constructed, having regard to the business and amount of travel in the vicinity of each, and to provide by ordinance for the letting of contracts for building the same.

§ 20. SIDEWALKS—HOW BUILT—HOW REPAIRED.] Whenever the city council shall deem it necessary to construct, rebuild or repair (except as hereinafter provided) any sidewalk in said city, they shall notify any and all owners and occupants of any lot or lots, or parcels of land adjoining such sidewalks, to construct, rebuild or repair the same at his or their own cost and expense, within a time designated, by the publication in the official paper of the city, once in each of the two consecutive weeks, of a notice to said owners and occupants, setting forth what work is to be done, and the character of the same, and the time within which they are required to do the same. Such notice may be general as to the owners, but must be specific as to the description of the lots or parcels of ground in front of which such sidewalks are to be built.

§ 21. THE CITY COUNCIL TO CONTRACT FOR SIDEWALKS—WHEN.] If such work is not done and the sidewalks not built, repaired or rebuilt in the manner, and within the time prescribed in said notice, the city council may order the same to be done by such person as they may contract with, and under the direction of the city engineer, at the expense of the lots and parcels of land adjoining said sidewalks, and said expense shall be assessed upon said lots and parcels of land so chargeable by the city engineer, and returned by him to the city council, and the city auditor shall cause to be published said estimate of the city engineer, together with a notice of time and place when the city council will meet to approve of the same, by one publication in the official newspaper of the city, for at least ten days prior to the meeting of the council to approve the same, and said assessment so made and returned if approved by the council shall be a lien upon said lots and parcels of land on and after such approval.

§ 22. ASSESSMENTS FOR SIDEWALKS—HOW MADE—PENALTY FOR NON-PAYMENT.] Within ten days after such assessment shall have been so approved, the city auditor shall file a certified copy of

the same in the office of the city treasurer, and thereupon said assessment shall be payable and due to said city, and if not paid within sixty days thereafter, shall have a penalty of ten per cent, added thereto.

§ 23. COUNCIL MAY PAY FOR REPAIRING SIDEWALKS—WHEN.] The city council may provide by ordinance, for repairing sidewalks where the amount of such repairs do [does] not exceed the sum of ten dollars for fifty feet of such walk, and may pay for the same out of the general fund if they shall deem it expedient.

§ 24. PENALTY FOR FAILURE TO KEEP SIDEWALK IN REPAIR—NON-RESIDENT OWNER TO BE NOTIFIED.] Any owner of real property who shall fail to keep in repair the sidewalk in front of or along such property if he reside thereon or if he does not reside thereon to repair the same forthwith when notified, shall be held liable to the city for any damage caused by such neglect.

§ 25. SALE OF REAL PROPERTY FOR SPECIAL TAXES—HOW SOLD—ADVERTISING—COSTS OF.] There shall be a sale of all real property for all due and unpaid special assessments thereon for local improvements held on the first Monday in March and the first Monday in December of each year, and whenever any special assessment for such local improvements shall have been levied as provided in this act, and shall have been due and unpaid for sixty days preceding the first days of February and November of each year, the city treasurer shall give notice of such sale by publication in the official newspaper of the city once in each of three consecutive weeks. The first publication shall not be less than twenty-three nor more than thirty days prior to the day of such sale. Such notice shall state when and for what purpose such assessment was made, and shall contain a list of the property upon which such assessment is unpaid, with the amount of such assessment including penalty and costs of advertising (which costs shall be ten cents for each tract or parcel of land) and also the day and place of sale.

§ 26. CITY TREASURER TO ADJOURN SALE—WHEN—ADJOURNMENT LIMITED.] On the day mentioned in the preceeding section, and in such notice of sale, the city treasurer or his deputy shall attend at the place designated, at ten o'clock in the forenoon of said day, and offer for sale each piece or parcel of property contained in the advertised list upon which the assessment shall remain due and unpaid, and he may adjourn the sale from day to day until the property in said list is all sold, or offered for sale; *Provided*, That such adjournment shall not extend beyond a period of three days, from the day named in the notice.

§ 27. WHO CONSIDERED THE HIGHEST BIDDER—WHAT PART OF PROPERTY SOLD.] The person offering to pay the amount due on any piece or parcel of land or city lot, far the smallest portion of the same shall be considered the highest bidder, and when such property is unplatted, such portion shall be taken from the south-east corner thereof, in form as nearly square as possible, and if a

city lot, it shall be so many feet extending the full depth of the lots, and taken from the north or east side of such lot.

§ 28. DUTY OF CITY TREASURER ON FAILURE OF BIDDER TO PAY FORTHWITH.] Should any person bidding, fail forthwith to pay the amount due, then the city treasurer may again offer the same for sale at any time before the close of the sale, or he may recover the amount of such bid by a civil action brought in the name of the city, or sell the same at private sale as hereinafter provided.

§ 29. CITY TREASURER TO KEEP RECORD OF SALE, AND REPORT SAME TO CITY AUDITOR.] The city treasurer shall keep a record of such sale in a book for that purpose, showing the description of each piece or parcel sold or offered for sale, to whom sold, date of sale, and amount sold for, if sold, and if not sold it shall be so stated, and the reason, and within ten days after the close of said public sale of property the city treasurer shall file in the office of the city auditor a return of said sale showing the land or lots sold, the name of the purchaser, and the sum paid by them, and also a copy of the notice of the sale, with a certificate of advertisement, verified by an affidavit, and such certificate shall be evidence of the regularity of the proceedings.

§ 30. CERTIFICATE OF PURCHASE—FEE.] The purchaser of any lot or tract of land sold by the city treasurer for such special assessment, shall be entitled to a certificate of purchase, describing the lot or tract so purchased, the sum paid, and the time when the purchaser will be entitled to a deed, which certificate shall be assignable, and the assignment must be acknowledged before some officer having authority to take acknowledgements of deeds; said certificate shall be signed by the treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings, and the treasurer may demand and receive the sum of fifty cents for each certificate so issued.

§ 31. PRIVATE SALE OF REAL PROPERTY FOR SPECIAL TAXES—WHEN—CERTIFICATES IN DUPLICATE—WHAT TO CONTAIN.] After the sale shall have closed, and after the treasurer shall have made his return thereof to the city auditor as hereinbefore provided, if any tract, parcel or lot of land remain unsold for want of bidders, the sum for which such property was offered for sale shall draw interest at the rate of eighteen per cent. per annum until such property is sold or redeemed, and the treasurer is authorized to sell the same at private sale to any person, who will pay the amount of the assessment, penalty and costs, with interest thereon, from the time when the same was offered for sale to the time of the purchase, and to deliver to such purchaser a certificate as provided in section thirty of this article, and shall make out duplicate certificates for the amount of such purchase, one of which shall be deposited with the city auditor, and the other delivered to the purchaser, with the additional statement inserted in said certificate that said land or lots was offered at public sale for such

assessment, but not sold for want of bidders, and he shall endorse on said certificate "sold for special assessment at private sale."

§ 32. TAX DEED TO ISSUE AFTER TWO YEARS—FORM OF—MINOR MAY REDEEM—WHEN.] At the expiration of two years after the date of such sale as fixed in the notice thereof, the purchaser or assignee shall be entitled to a deed of the property so sold, which deed shall be in form substantially as follows:

TAX DEED.

WHEREAS, A. B. did on the.... day of...., A. D. 188..., produce to the undersigned, C. D., treasurer of the city of...., in the county of...., and the Territory of Dakota, a certificate of purchase in writing, bearing date the.... day of...., 188..., signed by...., who at the last mentioned date was treasurer of said city, from which it appears that.... did on the.... day of...., 188..., purchase at public auction (or at private sale) at the office of said treasurer, in the said city, the tract, parcel or lot of land lastly in this indenture described, and which said lot was sold to.... for the sum of.... dollars, being the amount due on the following tract or lot of land, returned delinquent for the non-payment of an assessment for local improvements, made on the.... day of ..., 188..., including penalty, costs and charges, to-wit: (here insert the particular lot of land offered for sale) and it appearing that the said A. B. is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the lands therein described having now expired, and the same not having been redeemed as provided by law, and the said A. B. having demanded a deed for the tract of the land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for the special assessment, penalty, and costs as above specified, and it appearing that said lands were legally liable for such assessments, and that such assessment was duly made and charged to such land on the....day of....18.... and that said lands had been legally advertised for sale for such assessments and were sold on the....day of....18....; now therefore this indenture made this....day of....18....between the city of....county of....and Territory of Dakota, by....treasurer of said city of the first part, and the said A. B. of the second part, witnesseth, that the said party of the first part for and in consideration of the premises and the sum of one dollar in hand paid hath granted, bargained and sold, and by these presents doth grant, bargain, sell and convey unto the said party of the second part and his assigns forever, the lot, tract or parcel of land mentioned in said certificate and described as follows, to-wit: (describe the land) to have and to hold said mentioned lot, tract or parcel of land with the appurtenances thereto belonging, to the said party of the second part...., heirs and assigns forever, in as full and ample a manner as the said

treasurer of said city is empowered by law to sell the same. In testimony whereof the said treasurer of said city of....has hereunto set his hand and seal on the day and year aforesaid; *Provided*, That the owner or occupant or any other person may redeem the same at any time within the two years mentioned in this section, or before the tax deed is issued therefor, by paying the amount such land sold for with costs and interest on the same, at the rate of twenty-four per cent. per annum from the date of such sale; and, *Provided, further*, That the lands or lots belonging to minors or any interest they may have in any land or lots sold for such taxes may be redeemed in the same manner at any time before such minor becomes of age and during one year thereafter.

§ 33. PART OWNER TO PAY PRO RATA, OR ACCORDING TO INTEREST IN PROPERTY.] Any person claiming a portion of any piece or parcel of land or lot sold for such special assessment, may redeem the same by paying the proportion so claimed pro rata, according to the number of feet abounding or abutting on said improvement, or if his interest be undivided he shall pay the proportion that his interest bears to the whole amount, and the conveyance shall be made for the part or proportion unredeemed.

§ 34. CERTIFICATE OF SALE SURRENDERED—WHEN DEED ISSUED—CITY TREASURER TO KEEP RECORD OF.] Upon presentation and surrender of the certificate of sale after the time of redemption shall have expired, the treasurer shall issue to the owner thereof a deed in the name of the city, as provided, in section 32, of this article, which deed shall be executed under his hand and the execution shall be attested by the city auditor under the seal of the city, and such deed shall vest in the grantee an absolute estate in fee simple in such land subject however to all the claims which the Territory, county or city may have thereon for taxes, and shall be presumptive evidence of the truth of the facts therein recited, and *prima facie* evidence of the regularity of all the proceedings; which deed shall be acknowledged by the treasurer before some person authorized by law to take acknowledgements of deeds; and the treasurer shall make a record of the date of said deed and to whom made, and shall cancel the certificate and file the same with the city auditor.

§ 35. ERROR OR OMISSION NOT TO INVALIDATE DEED.] Any error in describing any lot or parcel of land or any omission of any tract so assessed, shall not invalidate the sale as to the lots or parcels of land correctly described, but any tract or parcel so omitted or erroneously described may be advertised and sold at the next succeeding sale.

§ 36. SALE NOT INVALIDATED—WHEN—NO PROPERTY EXEMPT FROM SPECIAL ASSESSMENT.] The sale of land or city lots or any real property for special assessment, shall not be invalid on account of such real property having been listed or charged on the assessment list, or advertised in any other name than that of the rightful owner; and no real property within the limits of the city

shall be exempt from special assessment for street, sidewalk or sewer purposes.

§ 37. TIME TO COMMENCE ACTION FOR POSSESSION LIMITED.] No action shall be commenced by the former owner or owners, of lands or lots, or by any person claiming under him or them, to recover possession of such land or lots, which has been sold and conveyed by deed for non-payment of any special assessment, or to, avoid such deed unless such action shall be commenced within three years after the recording of such deed; and not until the amount of such special assessment, interest and penalties, costs and expenses and all taxes or special assessments paid on such property shall be paid or tendered by the parties commencing such action.

§ 38. CITY COUNCIL MAY ISSUE BONDS—TO WHAT AMOUNT.] For the purpose of carrying into effect and economically enforcing the provisions of this article, the city council shall have power and authority to issue the bonds of the city to an amount not exceeding one-half of one per cent. of the valuation of all property in the city, as may appear by the last tax list preceding such issue, and such issue of bonds shall not be increased until the valuation shall have increased at least one hundred thousand dollars, over and above the valuation upon which the next preceding issue shall have been based.

§ 39. INTERNAL IMPROVEMENT BONDS.] Said bonds shall be issued in amounts of not less than five hundred dollars each with interest coupons attached, as directed by the city council, and shall draw interest at a rate not exceeding seven per cent. per annum, payable annually or semi-annually, as may be determined by the city council, and shall be termed and known as "Internal Improvement Bonds," and payable, principal and interest, either in New York City or the city issuing the same. Said bonds shall become due and payable in not [less] than twenty years from the date of issuance thereof, and shall not be sold or negotiated at a less rate than ninety-five per cent. of their face value.

§ 40. PROCEEDS OF INTERNAL IMPROVEMENT BONDS—HOW DISPOSED OF.] The proceeds of the sale of said bonds shall be kept as a special fund, separate and apart from the other funds of the city, and used solely and exclusively for the purpose of paying for work done and material furnished under the provisions of this article, and in no case shall a greater amount of this fund be used for such purposes than the amount of the assessment as approved by the city council, nor until such assessment has been fixed and approved, and all such assessments, penalties and interest, when collected, shall be credited to such fund, and remain a part of the same.

§ 41. MAYOR AND AUDITOR TO SIGN BONDS AND CONTRACTS.] All bonds of the city, and all contracts and conveyances (except tax deeds) shall be signed by the mayor and countersigned by the auditor, who shall affix the seal of the city thereto, and keep an

accurate record of all bonds issued in a book to be provided for that purpose.

ARTICLE XVI.--SEWERAGE.

§ 1. CITY COUNCIL MAY ESTABLISH AND MAINTAIN SEWERS.] The city council shall have power to establish and maintain at any time a general system of sewerage for said city, in such manner and under such regulations as the city council shall deem expedient, and to alter or change the same from time to time as said council may deem proper; *Provided, however,* That no measures shall be taken for the establishment of such system of sewerage, except upon the affirmative vote of at least two-thirds of the members of the city council.

§ 2. CONSTRUCTION, ALTERATION, AND REPAIR OF SEWERS.] The cost of construction, altering or repairing any of the sewers or improvements herein provided for, or referred to, shall be estimated by the city engineer of the city, or such other competent engineer as may be selected by the city council for such purpose, who shall draw plans and specifications therefor; and such estimate together with said plans and specifications shall be filed with the city auditor of the city, (and a copy thereof to remain in the office of the city engineer) before any bids for work thereunder are advertised for, and shall remain on file in his office, and shall be open to the inspection of all persons, until after the contract for such work shall be let.

§ 3. PROPOSALS FOR CONSTRUCTION.] The city council shall then cause proposals for said work to be advertised for in the several papers of such city for at least thirty days, which advertisement shall specify the work to be done, and shall call for bids upon a basis of cash payment for said work. Bids for such work shall be forwarded to the city auditor of such city, securely sealed, so as to prevent their being opened without detection, and shall be endorsed upon the outside thereof with a statement as to what work such proposals are for. Each bid shall be accompanied by a bond running to such city in a penal sum of at least fifty per cent. of the amount of the bid, which bond shall be executed by the bidder as principal, and by two or more good and sufficient sureties, who shall justify as such in like manner as required by the general laws of this Territory, relating to arrest and bail, which bond shall be conditioned that the bidder will well and faithfully perform the work bid for, in pursuance to the plans and specifications therefor, in case such contract be awarded to him, and further conditioned that in case of default on the part of the bidder to perform such work as provided in his contract, or in case of his failing to enter into said contract in case the same shall be awarded to him under his bid therefor, then the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said city, and the full amount thereof may be recovered of

said bidder and his sureties on said bond in an action by the city against them on said bond. Such bids shall be opened by the city council at the expiration of the time limited in said notice for receiving the same, or at such other time as the city council may appoint therefor.

§ 4. CONTRACTS—HOW MADE.] The city council shall have the right to reject any and all bids for such work, if in their opinion the interests of the city will be best subserved by so doing; but if all such bids be not rejected the contract shall then be awarded to the lowest responsible bidder, upon the basis of cash payment therefor; *Provided*, Such bidder shall have complied with the foregoing requirements, and shall have guaranteed to the satisfaction of the city council the proper and speedy completion of said work. Such contract shall be made on the part of the council and in the name of the city, and shall be executed on the part of the city by the mayor thereof, and countersigned by the city auditor with the corporate seal of the city attached, and an attested copy thereof shall be filed in the city auditor's office; *Provided, however*, That no such contract shall be awarded, except upon a two-thirds vote of all the members of the city council, and there shall be reserved in any contract so let, the right to the city council in case of the improper construction of such work, to suspend work thereon at any time, and to relet the contract therefor, or to order a reconstruction thereof, or of any part thereof, if improperly done.

§ 5. COUNCIL MAY GRANT ESTIMATES—TWENTY-FIVE PER CENT. RESERVED.] In case the contractor to whom any such contract shall be let, shall properly perform the work therein designated, the city council may from time to time in their discretion as the work progresses, grant to such contractor an estimate of the amount already earned thereunder reserving twenty-five per cent. therefrom, which estimate so allowed shall on presentation thereof to the city treasurer and filing the same with him, authorize the city treasurer to pay the amount of such estimate less twenty-five per cent. reserve, to such contractor out of any funds then in the treasurer's hands applicable thereto.

§ 6. COUNCIL MAY ISSUE BONDS FOR—WHEN PAYABLE.] The city council for the purpose of raising funds to pay for the establishment, construction and maintenance of such system of sewerage, shall have power to issue the bonds of the city to an amount not exceeding the sum of one hundred thousand dollars, payable in not to exceed twenty years from the date thereof, drawing interest semi-annually, at the rate of not exceeding seven per cent. per annum, payable at either in New York City or the city issuing the same, and which shall be signed and executed as provided in the article on special assessments of this act; *Provided*, That at no time shall there be more than one hundred thousand dollars of such bonds outstanding and unpaid, and shall not be negotiated at less than one hundred cents on the dollar.

§ 7. SPECIAL SEWERAGE ASSESSMENT COMMITTEE—HOW APPOINTED—DUTIES, ETC.] For the purpose of paying the principal and interest of such bonds, the city council shall provide as follows:

1. The city council shall forthwith upon the letting of any contract under the provisions thereof create by appointment of three persons from among the citizens of such city, "A Special Sewerage Assessment Committee," who shall each file with the city auditor a written acceptance of such appointment, and also take and subscribe in writing an oath to faithfully and impartially discharge the duties of his position as a member of such committee, which oath shall also be filed with the city auditor, and one of such three persons shall be designated by the city council as the chairman of such committee. The city council may from time to time as occasion may require, make new appointments to such committee to fill any vacancy arising therein from death or any cause and to substitute in case of neglect or refusal to act of any person so appointed.

2. It shall be the duty of such committee to personally inspect any and all lots, parts of lots and parcels of land fronting or abutting upon the work contracted for as hereinafter set forth, or within three hundred and fifty feet of any part thereof, and thereupon assess against all such lots, parts of lots and parcels of land, which will in the opinion of such committee be specially benefitted by the construction of such system of sewerage, a special assessment of such benefit, not exceeding in any case the sum of fifty dollars for any one lot or a proportionate amount for any lesser tract of land; and for the purposes of this act the word "lot" shall be construed to mean a piece or parcel of land twenty five feet in width by one hundred and forty feet in depth, or of any other shape and containing the same number of square feet. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefitted specially by the work under any one contract, the said committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed, and the amount assessed against each, and cause the same to be published for three consecutive weeks in the official newspaper of the city, together with a notice of the time and place when and where such committee will meet to hear objections to such assessments. At the time and place mentioned in such notice the said committee shall meet and hear any and all objections which shall be made to any such assessment by any owner or occupant of a tract so assessed, or his or their agent or attorney, and thereupon alter or affirm the same as may in the opinion of such committee be just in the premises. The committee shall then deposit such assessment list with the city auditor, who shall forthwith cause the same to be again published for three successive weeks in the official newspaper of the city, with a notice to the persons interested

that at the next regular meeting of the city council after the expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council.

3. At such meeting of the city council, any person aggrieved by the determination of such committee in regard to any such assessment, and who appeared in person or by agent or attorney before such committee as hereinbefore provided, if a resident of the city and all non-resident owners of any property so assessed, whether they appear before such committee or not, may appear before the city council and present their reasons why the action of such committee should not be affirmed by the city council, and the city council shall then hear and determine such appeals and objections if any, and may alter or affirm the action of such committee in relation thereto as to the city council may seem just in the premises; and shall thereupon cause such list when altered to conform to their action, if any such alteration be made, to be certified as correct by the city auditor and filed in his office. The city auditor shall annually, at the times he shall certify to the county auditor of such county the amount of city taxes to be levied for the current year, also certify to such county auditor a list of all lots or tracts of land assessed for sewerage purposes under the provisions of this act, with the amount to be collected for the current year, which amount shall be one-twentieth of the whole assessment as confirmed by the council, and the county auditor of such county shall extend the same upon the tax roll for the current year, and it shall be collected in the same manner as the other city taxes.

4. The said committee and the city council upon meeting at the time specified in the printed notices herein before set forth, may adjourn from day to day but not otherwise until the work of the revision of such list and the determination of said appeals are by them respectively completed; and the chairman of such committee, and the presiding officer of the city council, shall have power to administer oaths to witnesses, whom any party interested may desire to have testify in relation to matter so being considered by such committee and by the city council and in the interest of the city. The presiding officer of the city council may issue subpœnas for witnesses to testify on behalf of the city, but no appeal shall lie from the decision of the city council to any other tribunal, and no objection to any such assessment shall be considered by the city council unless the same objection shall have been first raised before said committee, except in case of non-residents as herein before provided; *Provided, however,* That this restriction shall not apply to the correction of obvious mistakes or clerical errors; and, *Provided, further,* That no lot, part of lot or parcel of land shall be specially assessed more than once for sewerage purposes.

5. The city council shall also in each year, at the same time as

may be required by law to levy other taxes, levy an annual tax upon all property, real and personal, within the city, upon the basis of the last general assessment of the city, in such amount as may be necessary, together with the proceeds of such special assessment, to provide for the payment of the annual interest on said bonds, and to create a proper sinking fund for the payment of the principal thereof, when due, and such tax shall be levied in mills, and shall be certified to the county auditor of the county, with and in the same manner as other city taxes, and shall be collected and collection enforced with and in the same manner as other city taxes.

6. The proceeds of such special assessment, and of such annual tax, when paid over to the city treasurer, shall be credited by said treasurer and the city auditor to this special fund, and be kept by the city treasurer separate and apart from all other funds, and shall be applied to no other purpose whatever than the payment of the interest upon said bonds and the payment of the principal thereof when the same shall become due; *Provided, however,* That whenever there shall be one thousand dollars or more of such funds in the hands of the city treasurer, over and above the amount which will be needed to pay the interest on said bonds for the then current year, the city council may by a two-thirds vote thereof, authorize the investment of such amount in excess of that required for the payment of interest in such security or securities as will in the opinion of the city council be safe and readily convertible into cash, and as will secure to said city on the amount so to be invested, interest at the rate of not less than six per cent. per annum; or by a like vote may authorize the negotiation and redemption before due of any such outstanding bonds, on such terms as will in the opinion of the city council best subserve the interests of the city.

§ 8. INTEREST AND PRINCIPAL OF BONDS TO BE PROMPTLY PAID WHEN DUE.] Out of the revenue thus to be derived, the interest upon said bonds shall be promptly paid when due, and the principal thereof be promptly paid at maturity of said bonds.

ARTICLE XVII—CORPORATE LIMITS.

§ 1. POWER TO EXTEND CORPORATE LIMITS.] Any city now existing in this Territory that shall become incorporated under this act, may extend its corporate limits in the manner herinafter provided.

§ 2. How.] When a majority of property owners adjacent to the corporate limits of any city now existing in this Territory, petition the mayor and city council of said city to have any of their property included within the corporate limits of said city, it shall be the duty of said city council to publish such petition in the official paper of said city four consecutive weeks, and unless a written protest signed by at least twenty-five property owners of said city be filed with the mayor of said city opposing said pro-

posed annexation within ten days after the publication of said petition, said proposed annexation shall be included and become a part of the corporation of said city.

§ 3. PLAT OF CITY TO BE RECORDED.] The mayor of any city incorporated under this act, shall cause to be filed in the office of the register of deeds, in the county wherein said city is located, a plat showing the corporate limits and boundaries of his city at the time of its incorporation under this act, and any change in said city limits made subsequent to its incorporation under this act.

ARTICLE XVIII—MISCELLANEOUS.

§ 1. POWER TO ENFORCE CHARTER BY ORDINANCE.] When by this act the power is conferred upon the city council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the city council may provide by ordinance the details necessary for the full exercise of such power.

§ 2. POWER OF COUNCIL TO DEFINE ADDITIONAL DUTIES FOR CITY OFFICERS.] The duties, powers and privileges of all officers of character, in any way connected with the city government, not herein defined, and the defining by this act of the duties of the city officers, shall not preclude the city council from defining by ordinance further and additional duties to be performed by any such officer.

§ 3. CITY PROPERTY EXEMPT FROM TAXATION AND SALE ON EXECUTION.] Lands, houses, moneys, debts due the city, and property and assets of every kind or description belonging to the city, shall be exempt from taxation and sale on execution.

§ 4. FINES, PENALTIES AND FORFEITURES.] All fines, penalties and forfeitures collected for offenses against the ordinances of the city, and all fines, penalties and forfeitures collected within the city for misdemeanors against the laws of the Territory, shall be paid to the officer or officers entitled by law to receive the same.

§ 5. PENALTY FOR CITY OFFICIALS INTERESTED IN CONTRACT OR WORK OF THE CITY.] Any officer of the city, or member of the city council, who shall by himself or agent become a party to, or in any way interested in any contract, work or letting under the authority of the city, or who shall, either directly or indirectly, by himself or other party, accept or receive any valuable consideration or promise for his influence or vote, shall be fined in any sum not to exceed one thousand dollars, one-half of which shall go to the informer and the balance to be paid into the city treasury, by the officer collecting or receiving the same, and the said contract shall be null and void.

ARTICLE XIX.—How TOWNS MAY BECOME CITIES.

§ 1. POPULATION REQUIRED, ETC.] Any incorporated town in this Territory, having a population of not less than one thousand inhabitants, may become incorporated as a city in like manner as in this act provided, but in all such cases the president and trus-

tees of such town, shall respectively, perform the same duties relative to such change of organization as is above required to be performed by the mayor and council of cities.

§ 2. ORGANIZING A CITY — PETITION — ELECTION — RESULT.] Whenever any area of contiguous territory in this Territory not exceeding four square miles, shall have resident thereon a population of not less than five hundred inhabitants, which shall not already be included within any incorporated town or city, the same may become incorporated as a city in manner following. Any fifty legal voters thereof may file in the office of the county auditor, of the county in which such inhabitants reside, a petition addressed to the board of commissioners of such county, and if the territory described in said petition, shall be in more than one county, then the petition shall be addressed to the board of commissioners of the county, where a greater part of such territory is situated; which petition shall define the boundaries of such proposed city, and state the number of inhabitants residing within such limits, and also state the name of such proposed city, and shall contain a prayer that the question be submitted to the legal voters residing within such limits, whether they will organize as a city under this act. It shall be the duty of the board of commissioners of such county to fix a time and place within the boundaries of such proposed city, at which an election may be held to determine such question; and such commissioners shall name the persons to act as judges in holding such election, and shall give notice thereof by causing ten notices to be posted in public places within such proposed city, and section three of article one of this act shall be applicable to such election; *Provided*, That the returns of such election shall be made to and canvassed by the board of county commissioners instead of the city council, and the result of such election shall be entered upon the records of such board of county commissioners. If a majority of the votes cast at such election shall be "For city organization under general law," the inhabitants of such territory described in such petition shall be deemed to be incorporated as a city under this act, and with the name stated in the petition.

§ 3. ELECTION OF OFFICERS.] It shall be the duty of the president and board of trustees of any town which shall have voted to change its organization to a city under this act, to call and give notice of an election, to elect city officers, and to designate the time and place or places of holding the same. Such notice shall be published in a newspaper, if there be one within the town, or posted in ten public places for at least twenty days before such election. Such president and trustees shall appoint the judges to hold such election, canvass the returns thereof, and cause the result to be entered upon the records of the town; and the provisions of this act, relative to the election of city officers, shall be applicable thereto; but at such election, aldermen may be elected on a general ticket.

§ 4. WHEN COUNTY COMMISSIONERS TO GIVE NOTICE OF ELECTION, ETC.] In case of cities organizing under section two of this article, the county commissioners shall call and give notice of the election, and perform the same duties relative thereto as is above required to be performed by president and trustees of such town.

§ 5. TERM OF FIRST OFFICERS.] The city officers elected under either of the preceding sections shall hold their respective offices until the succeeding regular election for such officers, respectively, and until their successors are elected and qualified as provided by this act.

§ 6. SPECIAL CHARTER NULL AND VOID—WHEN.] Whenever any city in this Territory shall adopt this act, any special charter that may have been granted to such city shall be null and void.

§ 7. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 8. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

IRRIGATING DITCHES.

CHAPTER 74.

AN ACT Relating to Irrigation Ditches.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. UNLAWFUL TO INTERFERE WITH DITCHES.] That it shall be unlawful, for any person or persons, to divert any of the waters from any irrigation ditch, in this Territory, or to interfere in any manner whatever with any irrigation ditch, without first having obtained the permission of the owner of such ditch, or of the person or persons lawfully in charge thereof.

§ 2. PENALTY FOR—JURISDICTION OF JUSTICE OF THE PEACE.] Any person or persons violating any of the provisions of the preceding section, shall be deemed to be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than fifty, and any justice of the peace within the county where such offense may be committed shall have the jurisdiction to try and determine all cases arising under the provisions of this act.

§ 3. PARTIES USING WATER RESPONSIBLE FOR DAMAGES.] All persons using the waters of any irrigation ditch in this Territory, shall be responsible for all damages occasioned by such waters, after the same have been diverted from such ditch.

§ 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. This act shall take effect and be in full force from and after its passage and approval.

Approved, March 11, 1887.

JUDICIAL DISTRICTS.

CHAPTER 75.

FIRST DISTRICT—SUBDIVISIONS.

AN ACT, To Amend Subdivisions One (1) and Two (2) of Section Five (5) of Chapter Eighty-Four of the General Laws of 1881.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PENNINGTON COUNTY.] That subdivisions one (1) and two (2) of section five (5) of chapter eighty-four, of the General Laws of 1881, be and the same are hereby amended to read as follows, to-wit: The county of Pennington constitutes one subdivision, and the district court shall be held therein, at the county seat of Pennington county, on the third Tuesday of May, and the fourth Tuesday of October, of each year.

§ 2. CUSTER.] The county of Custer constitutes one subdivision, and the district court shall be held therein at the county seat of Custer county, on the second Tuesday of June and the third Tuesday of October of each year.

§ 3. FALL RIVER.] The county of Fall River constitutes one subdivision, and the district court shall be held therein, at the county seat of Fall River county, on the third Tuesday of June of each year.

§ 4. REPEALED.] Subdivisions one (1) and two (2) of section five (5) of chapter eighty-four of the General Laws of 1881, and all laws and parts of laws in conflict with this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 76.

SECOND DISTRICT—SUBDIVISION OF BRULE, BUFFALO, LYMAN,
PRESHO, PRATT, MEYER, TRIPP, AND GREGORY.

AN ACT Creating and Defining a Subdivision of the Second Judicial District,

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COUNTIES INCLUDED—TERMS OF COURT.] That the counties of Brule, Buffalo, Lyman, Presho, Pratt, Meyer, Tripp and Gregory, in the Territory of Dakota, shall constitute one subdivision of the Second Judicial District, and that the district court in and for this subdivision shall be held at the city of Chamberlain, the county-seat of the county of Brule, at such time or times as the judge of said court shall appoint.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect from and after its passage and approval.

Approved, February 25, 1887.

CHAPTER 77.

FOURTH DISTRICT—BOUNDARIES OF.

AN ACT, to Amend an Act Entitled "An Act Defining the Boundaries of the Fourth (4th) Judicial District and Fixing the Time of Holding Court Therein."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. JUDICIAL SUBDIVISIONS.] That section one (1) of chapter seventy-eight (78) of the General Laws of 1885, be and the same is hereby amended to read as follows, viz: That the counties of Union, Clay, Lincoln, Turner, Minnehaha, McCook, Moody and Lake shall constitute the Fourth Judicial District, and each of said

counties shall constitute a judicial subdivision and the terms of the district court shall be held therein as follows, to-wit:

Clay county, the first Tuesday in February and the third Tuesday in September; Union county, the third Tuesday in February and the first Tuesday in September; Turner county, the fourth Tuesday in February and the fourth Tuesday in September; Lincoln county, the second Tuesday in March and the third Tuesday in October; Minnehaha county, the second Tuesday in April and the second Tuesday in November; McCook county, the fourth Tuesday in May; Lake county, the first Tuesday in June; Moody county, the third Tuesday in June and the first Tuesday in January; *Provided*, That for the year of 1887 the court of Turner county shall be held on the third Tuesday in March, instead of the said second Tuesday in March, and thereafter the terms of court shall be held in said counties as in this act provided.

§ 2. CONFLICTING ACTS REPEALED.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 18, 1887.

CHAPTER 78.

SIXTH DISTRICT—SUBDIVISIONS.

AN ACT To Define the Sixth Judicial District of the Territory of Dakota, to Sub divide the Same, to fix the Terms of Court Therein, and for Other Purposes, in Pursuance of the act of Congress Dividing said Territory Into six Judicial Districts.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COUNTIES INCLUDED IN SIXTH DISTRICT.] That the Sixth Judicial District of the Territory of Dakota, shall consist of the following counties in said Territory, viz: Bowman, Villard, Billings, Dunn, McKenzie, Allred, Buford, Flannery, Wallace, Mountraille, Williams, Stark, Hettinger, Boreman, Morton, Mercer, McLean, Ward, Stevens, Renville, Wynn, Bottineau, McHenry, Sheridan, Garfield, Burleigh, Emmons, McIntosh, Logan, Kidder, Wells, DeSmet, Rolette, Benson, Foster, Eddy, Stutsman, LaMoure, Dickey, Griggs, Steele and Barnes.

§ 2. COUNTIES INCLUDED IN FIRST SUBDIVISION—TERMS OF COURT.] That the said Sixth Judicial District be and the same is hereby divided into subdivisions, as follows: The first subdivision shall consist of the counties of Burleigh, Boreman, Em-

mons, McLean, Stevens, Sheridan and Garfield. The district court in and for this subdivision, shall be held at the city of Bismarck, in the county of Burleigh, on the first Tuesday in March and the first Tuesday in September in each year.

§ 3. COUNTIES INCLUDED IN SECOND SUBDIVISION—TERMS OF COURT.] The second subdivision shall consist of the counties of Morton, Hettinger, Oliver, Mercer and Williams. The district court in and for this subdivision shall be held at the city of Mandan, in the county of Morton, on the first Tuesday in January and August in each year.

§ 4. COUNTIES INCLUDED IN THIRD SUBDIVISION—TERMS OF COURT.] The third subdivision shall consist of the counties of Kidder and Logan. The district court in and for this subdivision shall be held at the city of Steele in the county of Kidder, at such time in each year as the judge of said court may direct.

§ 5. COUNTIES INCLUDED IN FOURTH SUBDIVISION—TERMS OF COURT.] The fourth subdivision shall consist of the counties of Stutsman and LaMoure. The district court in and for this subdivision shall be held in the city of Jamestown, in the county of Stutsman, on the second Tuesday in May and November in each year.

§ 6. COUNTIES INCLUDED IN FIFTH SUBDIVISION—TERMS OF COURT.] The fifth subdivision shall consist of the county of Barnes. The district court in and for this subdivision shall be held at the city of Valley City, in the county of Barnes, on the last Tuesday of June of each year.

§ 7. COUNTIES INCLUDED IN SIXTH SUBDIVISION—TERMS OF COURT.] The sixth subdivision shall consist of the counties of Benson, DeSmet, Bottineau and Rolette. The district court in and for this subdivision shall be held at the county-seat of said Benson county, at such time in each year as the judge of said court may direct.

§ 8. COUNTIES INCLUDED IN SEVENTH SUBDIVISION—TERMS OF COURT.] The seventh subdivision shall consist of the counties of Dickey and McIntosh. The district court in and for this subdivision shall be held at the county-seat of Dickey county, at such time in each year as the judge of said court may direct.

§ 9. COUNTIES INCLUDED IN EIGHTH SUBDIVISION—TERMS OF COURT.] The eighth subdivision shall consist of the counties of Griggs and Steele. The district court in and for this subdivision shall be held at the county seat of Griggs county, on the secoud Tuesday in June of each year.

§ 10. COUNTIES INCLUDED IN TENTH SUBDIVISION—TERMS OF COURT.] The tenth subdivision shall consist of the counties of Ward, Renville, Mountraille, Flannery, Buford, McHenry and Wynn. The district court in and for this subdivision shall be held at the county seat of Ward county, at such time in each year as the judge of said court may direct.

§ 11. COUNTIES INCLUDED IN ELEVENTH SUBDIVISION—TERMS

OF COURT.] The eleventh subdivision shall consist of the counties of Stark, Bowman, Villard, Billings, Dunn, McKenzie, Allred and Wallace. The district court in and for this subdivision shall be held at the county seat of Stark county, at such time in each year as the judge of said court may direct.

§ 12. COUNTIES INCLUDED IN TWELFTH SUBDIVISION—TERMS OF COURT.] The twelfth subdivision shall consist of the counties of Foster, Wells and Eddy. The district court in and for this subdivision shall be held at Carrington in the county of Foster, at such time as the court may direct.

§ 13. PENDING ACTIONS.] All actions and proceedings, both civil and criminal, now pending in any subdivision of said Sixth Judicial District, heretofore created by act of the legislature of this Territory, shall be respectively tried, heard and determined in the district court held in the subdivision hereby created, in which the county wherein the cause of action arose, or the offense was committed, or the venue is laid, is situate or forms a part.

§ 14. All acts or parts of acts conflicting with this act or any of its provisions are hereby repealed.

§ 15. This act shall take effect from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 79.

SIXTH DISTRICT—SUBDIVISION OF THE FIFTH SUBDIVISION.

AN ACT To Divide the Fifth Subdivision of the Sixth Judicial District Into two Subdivisions, and to Provide for Terms of Court Therein.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BARNES COUNTY A SUBDIVISION—TERM OF COURT.] That the county of Barnes shall constitute the fifth subdivision of the Sixth Judicial District, and that a term of court shall be held therein at Valley City on the last Tuesday of June in each year.

§ 2. GRIGGS AND STEELE COUNTIES A SUBDIVISION—TERM OF COURT.] That the counties of Griggs and Steele shall constitute the eighth subdivision of the Sixth Judicial District, and that a term of court shall be held therein at Cooperstown, in the county of Griggs, on the second Tuesday of June in each year, or at such other time as the court may designate.

§ 3. The sixth section of chapter eighty-one of the Session Laws of 1885, of the Territory of Dakota, is hereby repealed.

§ 4. This act shall take effect from and after its passage and approval.

Approved, February 15, 1887.

JURORS.

CHAPTER 80.

MANNER OF DRAWING AND SUMMONING JURORS.

AN ACT To Amend Sections One, Two, Three, Four and Nine of Chapter Seventy-Two of the Laws Passed by the Fifteenth Legislative Assembly of the Territory of Dakota, Relating to the Selection of Jurors.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. DUTY OF COUNTY COMMISSIONERS.] That section one of chapter seventy-two of the laws passed by the Fifteenth Legislative Assembly of the Territory of Dakota, be and the same is hereby amended, so as to read as follows:

§ 1. In every county in this Territory, either wholly or partially organized into civil townships, wherein a district court is appointed or directed to be holden, the names of two hundred persons who are qualified to act as jurors shall be selected in the manner hereinafter provided, from which to draw the grand and petit jurors. The board of county commissioners in each county in which only a portion of the civil townships are or may be organized, shall apportion to each of the organized townships, and to each incorporated city or town in such county, and to the unorganized portion of such county, as near [as] may be, its pro rata share of the said number of names, the number of names to be selected from those of the qualified residents of the portion or portions of such county, not organized into civil townships, and not embraced within the limits of any incorporated city or town, shall be furnished by the county commissioners in the manner now provided by law, for counties having no organized townships. In each county in which the entire number of townships are organized into civil townships, the board of county commissioners shall, as near as may be, apportion pro rata the said two hundred names among the several townships in their respective counties; *Provided*, That in counties containing an incorporated city or town, or incorporated cities or towns, the county commissioners shall apportion as near as may be, to each incorporated city or town, its pro rata share of said number of names, the basis of any apportionment provided for in this section, shall be the proper names on the several assessors lists, for

the year preceding, the making or filling of such list of names for jurors.

§ 2. CLERKS OF TOWNSHIPS TO POST NOTICES.] That section two of said chapter seventy-two be and the same is hereby amended so as to read as follows:

§ 2. Whenever the county commissioners of any such county shall have determined the number of such names, for each of the organized civil townships, and for each incorporated city or town, if any there be, in such county, the county clerk shall forthwith notify the clerk of each of such townships, cities and towns of the apportionment for his township, city or town, and said clerk shall immediately thereafter cause to be posted in three public places in his township, city or town a notice that the board of supervisors of the township, or the board of aldermen, or the city council, of the city, or the board of trustees of the town, as the case may be, will meet to draw the names of qualified jurors of the township, city or town to make up the grand and petit jurors' list of the county; such notice shall state a place and hour of such meeting within the township, city or town, and designate a day, not less than five nor more than ten from the date of posting such notice.

§ 3. SUPERVISORS, BOARD OF ALDERMEN OR TRUSTEES OF TOWN TO SELECT JURORS—MANNER OF.] That section three of said chapter seventy-two be and the same is hereby amended, so as to read as follows:

§ 3. Upon the day mentioned in section two of this act, the board of supervisors of the township, the board of aldermen of the city council of the city, or the board of trustees of the town, shall meet at the time and place mentioned in such notice, and select from the names of the resident taxpayers of such township, city or town, three times as many names as are apportioned to the township, city or town, by the county commissioners, and the township, city or town clerk, shall at such meeting, write each name so selected, upon a separate ticket, and shall also record a list of said names so written and selected, in a book to be kept for that purpose. The said board shall then compare the names on said tickets, with such recorded list of names, to see that said tickets are correct. The tickets shall then be folded, placed in a box or some other receptacle, and shaken up; one member of the board shall then select by lot, from the tickets in said box or receptacle, the proper number of names so apportioned to his township, city or town as the case may be and the clerk shall then record in a book to be kept for that purpose, such names in the order in which they are drawn.

§ 4. CLERK TO SEND LIST TO CLERK OF COURT.] That section four of said chapter seventy-two, be and the same is hereby amended, so as to read as follows:

§ 4. The said clerk shall, immediately thereafter, forward by mail to the clerk of the district court of his county a list of the names

so drawn and such clerk of the court shall make out and record in a book to be used for that purpose, a list of the names returned to him, under the provisions of this act; but the failure of the officers of any township, city or town to perform their duty as hereinbefore provided, shall not invalidate said list made up by the clerk of the district court.

§ 5. NUMBER OF NAMES TO BE KEPT AT MAXIMUM.] That section nine of said chapter seventy-two, be and the same is hereby amended by inserting after the word "township" in said section the words "the board of aldermen, or the city council of any city, or the board of trustees of any town."

§ 6. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

JURISDICTION OF DISTRICT COURT.

CHAPTER 81.

AN ACT To Amend Section Thirty-one of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota.

§ 1. ALWAYS OPEN FOR CERTAIN PURPOSES.] That section thirty-one of the Code of Civil Procedure be and it is hereby amended so as to read as follows:

§ 31. These courts are always open for the purpose of hearing and determining all actions, special proceedings, motions and applications of whatever kind or character, and whether of a civil or criminal nature, arising under the laws of the Territory, and of which the district courts have jurisdiction, original or appellate, except issues of fact in civil and criminal actions, and all such actions, special proceedings, motions and applications may be heard and determined at any place within the judicial district in which is situated the county or judicial subdivision wherein the same is brought or is pending; but issues of fact in civil and criminal actions must be tried in the county or judicial subdivision in which the same is brought, or to which the place of trial is changed by order of the court upon the written consent of the

parties to such action, or upon the grounds now or hereafter provided by law; *Provided, however,* Nothing in this section contained shall be construed to prevent the judge of any district court from making any order at chambers at any place within the Territory in any matter properly before him; and it is further *Provided*; That nothing in this section contained shall be construed to invalidate any order or judgment heretofore made or rendered by the court out of term, under or by virtue of section thirty-one, Code of Civil Procedure; but all such orders and judgments shall be and remain of the same force and effect as if such order or judgment had been made or rendered and entered at a regular term of the district court.

Approved, March 11, 1887.

JUSTICES' COURT.

CHAPTER 82.

CHANGE OF VENUE IN CRIMINAL PROCEEDINGS.

AN ACT To Amend Section 112, of the Justices' Code of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CHANGE OF VENUE.] That section 112, of the Justices' Code of the Territory of Dakota, be and the same is hereby amended to read as follows: In criminal proceedings before a justice of the peace, a change of the place of trial or examination may be had at any time before such trial or examination commences, when it appears from the affidavit of the defendant that he has reason to believe and does believe, that he cannot have a fair and impartial trial or examination before the justice about to try or examine such case, by reason of the bias or prejudice of such justice; whereupon the cause shall be transferred to the next nearest justice of the same county, unless the parties otherwise agree; *Provided*, That a change of the place of trial or examination under the provisions of this section can be had but once.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

LAWS.

CHAPTER 83.

COMPILED BY.

AN ACT To Provide for the Compilation, Publication and Distribution of the Laws of the Territory of Dakota.

WHEREAS, There has been no legalized compilation of the laws of this Territory, and whereas the Session Laws of many sessions of the Legislature are practically out of print, so, that, to ascertain the law on many subjects, is attended with great labor and difficulty, therefore,

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COMPILERS, HOW APPOINTED—DUTIES.] That there shall be appointed by the Governor, by and with the advice and consent of the Council, a compiler and assistant compiler of the laws, one of whom shall be an attorney admitted to practice in the courts of this Territory, whose duty it shall be to compile, arrange, publish and distribute the General Laws of this Territory, which may be in force on the fifteenth day of March, 1887. In such compilation there shall be, so far as practicable, an arrangement according to the general method of classification adopted in the Revised Code of 1877. Each chapter or subdivision of a chapter shall be headed by a syllabus of its contents, and shall have brief and comprehensive marginal notes, which shall state, in addition to the subject matter, the date of its enactment and the original number of the chapter and section. The laws so compiled shall be comprehensively and accurately indexed and prefaced with a general table of contents, and such directions as shall serve to facilitate reference. In an appendix to the volume of General Laws, as compiled, shall be printed the congressional act for organization of the Territory and any

subsequent acts of Congress amendatory thereto. Such appendix shall also contain a list of the titles of all General and Special Laws passed since 1877, arranged by years, with the General and Special Laws classified separately, with notes, showing which acts or parts of acts have been repealed and when and which have become obsolete and why. The said compilers shall report to the next session of the Legislature any contradiction, inconsistencies or omissions found in existing laws, for the information and action of that body. The current expenses of said compilers, for copying, stationery, postage and other incidental matters, pertaining to the compilation, publication and distribution of said laws, shall be paid out of the Territorial Treasury on verified accounts, approved by the Governor, and the Territorial Auditor is hereby directed to draw his warrants for the amounts of such verified accounts approved as aforesaid.

§ 2. PUBLICATION—CONTRACT, HOW LET—APPROPRIATION.] When such compilers shall have completed said compilation as above required, they shall cause the same to be published in one octavo volume, bound in law sheep or in heavy paper covers. Said compilers are authorized to make a contract, subject to approval by the Governor, for the printing and binding of said volume and to supervise the execution thereof. Such contract shall be made with the lowest and best bidder for such work, after advertisement for proposals in at least three (3) newspapers printed in this Territory, for one month prior to the letting of such contract, which advertisement shall designate the quality of paper and binding and style of type to be used in the work. Said compilers shall have the right to reject any and all proposals for the execution of the work, and to readvertise and secure further bids. The compilers shall certify to the Governor the amounts which may become due under such contract for said work, and, upon the Governor's approval thereof, the Auditor shall issue his warrants upon the Treasurer for payment of the sums so certified; *Provided*, That no amount to exceed four thousand (4,000) dollars shall be paid out of the Territorial Treasury for the compilation herein authorized, including salaries and expenses of compilers.

§ 3. DISTRIBUTION—COPIES FOR SALE—COPYRIGHT.] There shall be printed of such volumes such number as shall in the judgment of said compilers, be sufficient to supply the following. One hundred (100) copies shall be by them placed at the disposal of the Secretary of the Territory, to be by him distributed to the Library of Congress at Washington, to the President of the United States, to the heads of departments at Washington, to the President of the Senate and Speaker of the House of Representatives of the United States, and the state and territorial librairies. One copy shall be given to each of the Territorial officers and Boards, to each of the Justices of the Supreme Court of the Territory, to each district attorney, to each clerk of the district court, and to the United States Attorney and the United States Marshal.

for the District of Dakota. There shall be forwarded by the compilers to the clerk or auditor of each county, a sufficient number of volumes for distribution as follows: One copy to the judge of probate court, to each county, township, city, town or village justice, to the sheriff, register of deeds, auditor, treasurer, coroner, county superintendent of schools, chairman of the board of county commissioners and to the clerk of the board of supervisors of each civil township in the county for use and reference of township officers not otherwise herein specified. There shall also be forwarded one copy each as follows: To the principal officer in charge of each public institution in the Territory; and to each library association organized and maintained for the benefit of the public in any county or town in the Territory. The volumes distributed to the several Territorial, county, township or other officers in the Territory shall be the property of the offices respectively and shall be safely kept and turned over to successors in office. The compilers shall also provide copies for sale, to parties who may desire to purchase the same, at an advance of ten (10) per centum upon the cost price thereof, and all sums received for such sales shall be by them turned into the Territorial Treasury to the credit of the general funds of the Territory. They shall keep an accurate record of each and every volume distributed or disposed of as provided herein, and file the same with the Territorial Auditor. The compilers shall procure the copyright for the volume herein provided, for the exclusive benefit of the Territory.

§ 4. WHEN COMPILATION SHALL GO INTO EFFECT—GOVERNOR TO ISSUE PROCLAMATION.] When the laws shall have been printed and are ready for distribution, which shall be within eight months from the passage and approval of this act, the Governor shall issue his proclamation announcing such fact and his acceptance of such compilation; and thirty (30) days after the date of such proclamation, said compilation shall go into effect, and thereafter the laws so compiled shall be received by all the courts and officers of this Territory, and shall in all respects be as valid and binding as original enrolled acts approved and filed in the office of the Secretary of the Territory, as now provided by law.

§ 5. COMPILER TO GIVE BOND—COMPENSATION.] Each of the persons appointed to the office of compiler and assistant compiler, respectively, as provided in this act, shall, before entering upon the discharge of his duties, execute to the Territory of Dakota a bond in the penal sum of five thousand (5,000) dollars, to be conditioned on the proper performance of the duties herein prescribed, approved and filed according to law. For their services as herein prescribed they shall each be paid two hundred (200) dollars per month for the time actually and necessarily employed in such work, and the Territorial Auditor is hereby directed to draw warrants upon the Territorial Treasurer for such amounts as may be due said compiler or assistant compiler at the end of each month,

as shown by duly verified vouchers filed by said officers respectively.

§ 6. All acts or parts of acts, in so far as they are inconsistent with this act, are hereby repealed.

§ 7. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

LEGISLATIVE ASSEMBLY.

CHAPTER 84.

SUBORDINATE OFFICERS OF LEGISLATURE.

AN ACT Providing for the Appointment of Certain Subordinate Officers of the Territorial Council and House of Representatives, and for the Compensation and Payment Thereof.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **SUBORDINATE OFFICERS, HOW APPOINTED—SALARY.]** It shall be lawful for the President of the Council, and Speaker the House of Representatives of the Territory of Dakota and they are hereby authorized, to appoint, from time to time, such clerks for committees, stenographers, postmasters, and other subordinate officers and employes, for their respective bodies, in addition to those already provided for by law, as may, from time to time, be declared necessary and provided for by resolution of these respective Houses, or by joint resolution of such Assembly.

2. The salary of such clerks, subordinate officers, and employes, shall be fixed and provided for by the resolution declaring their appointment necessary.

3. That there is hereby appropriated out of the Territorial Treasury, a sum sufficient to pay for services of persons so employed.

4. The respective amounts due each clerk, officer or employe, so employed and appointed, shall be audited and paid out of the Territorial Treasury, upon an account certified by the presiding

officers of the two Houses, respectively, and attested by the Chief Clerk thereof.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, January 22, 1887.

CHAPTER 85.

COMPENSATION OF CERTAIN CLERKS.

JOINT RESOLUTION Providing for the Compensation of the Enrolling and Engrossing Clerks and the Clerks of the Committee on Judiciary.

Be it Resolved by the Council, the House of Representatives Concurring:

THAT the compensation of the Enrolling and Engrossing clerks, and the clerks of the Committees on Judiciary of the Council and House of Representatives, be and the same is hereby fixed at five dollars a day during the present session of the Legislative Assembly.

Approved, February 19, 1887.

CHAPTER 86.

APPROPRIATION FOR MILEAGE FOR SPECIAL COMMITTEE.

Be it Resolved by the House of Representatives, the Legislative Council Concurring:

THAT the committees appointed under resolutions to visit the Charitable and Penal Institutions of this Territory, and the committee and clerk appointed to confer with the authorities of Montana, in relation to measures for the prevention and suppression of contagious diseases among live stock, shall be allowed four cents per mile for each mile actually and necessarily traveled by the nearest and practicable route, in lieu of other expenses, and a sum sufficient to pay the same is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated.

Approved, March 11, 1877.

CHAPTER 87.

APPROPRIATION TO REIMBURSE LEGISLATIVE OFFICERS FOR CERTAIN EXPENSES.

JOINT RESOLUTION To Reimburse Legislative Officers, for Expenses Incurred in the Organization of the Legislative Assembly.

Be it Resolved by the Legislative Assembly of the Territory of Dakota:

THAT the sum of sixty-eight dollars is hereby appropriated out of any funds in the Territorial Treasury, to compensate A. W. Howard for expenses incurred and services in assisting as Chief Clerk of the Council at the Sixteenth Session, in the organization of the Council at its present session, as required by sections fourteen and fifteen of chapter two, of the Political Code.

There is also appropriated the same sum, to reimburse and pay for similar services of T. A. Kingsbury at the organization of the House of Representatives of the Sixteenth Session.

There is also appropriated the same sum of sixty-eight dollars, to reimburse and pay for similar services of J. G. Hamilton at the organization of the House of Representatives of the Seventeenth Session.

Approved, March 11, 1887.

CHAPTER 88.

APPROPRIATION FOR REPAIRING HALL OF HOUSE OF REPRESENTATIVES.

AN ACT Providing for the Payment of John P. Hoagland for Repairing the Hall of the House of Representatives.

Be it Resolved by the House of Representatives of the Territory of Dakota, the Council Concurring:

§ 1. APPROPRIATION.] That there be and hereby is appropriated out of any funds in the Territorial Treasury, not otherwise appropriated, the sum of sixty dollars and sixty cents to pay

John P. Hoagland, for repairing the hall of the House of Representatives.

§ 2. All acts and parts of acts conflicting with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 89.

APPROPRIATION FOR CERTAIN FURNITURE.

JOINT RESOLUTION, Being an Act to pay for Chairs for the use of the Ladies Visiting the Capitol.

Be it Resolved by the House of Representatives, the Council Concurring:

THAT there is hereby appropriated out of any funds in the Territorial Treasury, not otherwise appropriated, the sum of sixty-five (65) dollars, to pay Webb Brothers for chairs purchased for the use of the House, and under its direction; and a further sum of sixty-five (65) dollars, to pay for chairs for the use of the Council chamber for like purposes, and the Auditor of the Territory is hereby instructed to purchase such chairs, for the use of the Council in accordance with this act.

Approved, March 11, 1887.

CHAPTER 90.

APPROPRIATION FOR SESSION LAWS OF 1883 AND 1885.

JOINT RESOLUTION To Provide for the Purchase of Session Laws.

Be it Resolved by the Legislative Assembly of the Territory of Dakota:

THAT the Secretary of the Territory is hereby directed to purchase of the firm of Bowen & Kingsbury, of Yankton, D. T., the authorized printers thereof, one hundred copies of the Session Laws of 1883, and four hundred copies of the Session Laws of 1885, and to have the same forwarded to Bismarck at once, in the most expeditious manner, and that there is hereby appropriated out of

the Territorial Treasury the sum of thirteen hundred dollars to pay for the same, which sum shall be in full payment therefor for full bound volumes.

Approved, February 19, 1887.

CHAPTER 91.

AUTHORIZING PRINTING OF ACT OF CONGRESS REGARDING SPECIAL LEGISLATION.

JOINT RESOLUTION Providing for the Publication of 500 Copies of an Act of Congress of the United States, Entitled "An Act to Prohibit the Passage of Local or Special Laws in the Territories of the United States to Limit Territorial Indebtedness, and for Other Purposes."

Be it Resolved by the Council, the House of Representatives Concurring:

THAT five hundred copies of the act of the Congress of the United States, entitled "An act to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes," be printed for the use of the members of both Houses.

Approved, January 26, 1887.

CHAPTER 92.

APPROPRIATION FOR FUEL.

AN ACT To Provide Fuel for the Capitol.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] That the Secretary of the Territory be and he is hereby instructed, to provide the necessary fuel for heating the Capitol, during the present session of the Legislative Assembly and a sufficient sum is hereby appropriated out of any money in the treasury not otherwise appropriated for the payment thereof; *Provided*, The amount appropriated for this purpose by the General Government is found insufficient.

§ 2. How AUDITED.] That the Auditor is hereby instructed to audit bills for fuel, contracted up to this time for said purpose

and to issue his warrant on the treasury in payment of the amount found due.

Approved, January 26, 1887.

CHAPTER 93.

APPROPRIATION FOR NEWSPAPERS.

AN ACT Providing for the Payment for Newspapers, Furnished to Members of the Seventeenth Legislative Assembly of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION—CHIEF CLERKS CERTIFY TO CLAIMS.] That the Territorial Auditor be and he is hereby authorized and empowered, to hear and determine all claims arising under a Joint Resolution of the Legislative Assembly, approved January 20, 1887, for newspapers furnished to members thereof, as certified to him by the secretary of the Council and the clerk of the House of Representatives, and he is further empowered to draw his warrant upon the Territorial Treasurer for such amounts as he may deem to be due upon such accounts, and the Territorial Treasurer is hereby directed to pay such warrants out of the general funds of the Territory.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 94.

APPROPRIATION FOR LEVISEE'S CODE.

JOINT RESOLUTION.

Be it Resolved by the House, the Council Concurring:

THAT the Secretary of the Territory be authorized to purchase seventy-two (72) copies of the second edition of Levisee's Code, with the Session Laws of 1885 bound therein; such Codes to be distributed to the members of this Legislature, and that the sum of six hundred and forty-eight dollars, or so much thereof as may be

necessary, is hereby appropriated out of any funds in the Territory not otherwise appropriated, to pay for such Codes.

Approved, February 4, 1887.

CHAPTER 95.

APPROPRIATION FOR CERTAIN PURPOSES.

AN ACT To Appropriate Funds for Certain Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION—AUDITOR TO DRAW WARRANTS.] That there is hereby appropriated out of the general funds of the Territory, not otherwise appropriated, the sum of seven hundred, fifty-seven dollars fifty-eight cents (\$757.58) or so much thereof as may be necessary for the payment for certain articles furnished the Territory of Dakota by the parties named below. The Auditor is hereby authorized to draw his warrant upon the Territorial Treasury for the amounts dues the following named parties, not to exceed the sums herein specified, to-wit:

John Whalen.....	\$468.20
Webb Bros.	36.00
C. H. Phelps.....	70.50
Frank M. Searles	135.70
John Yegan	42.58
Frank Frisby.....	4.60

§ 2. This act shall be in force and effect from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 96.

APPROPRIATION FOR HACK HIRE.

JOINT RESOLUTION, Being an Act to Provide for the Payment of Aaron Cheatham and John Ostlund for Hack Hire During Call of House.

Be it Resolved by the House of Representatives, the Council Concurring:

THAT the sum of one dollar and fifty cents (\$1.50) be allowed Aaron Cheatham and the sum of three dollars (\$3.00) be allowed John Ostlund for hack hire during call of House, and the same is hereby appropriated out of any funds not otherwise appropriated.

Approved, March 11, 1887.

MARKS AND BRANDS.

CHAPTER 97.

AN ACT To Amend Chapter Sixty-one of the Session Laws of 1881, Relating to Marks and Brands.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. SUBSTITUTING REGISTER OF DEEDS FOR COUNTY CLERK.] Chapter sixty-one (61) of the Session Laws of 1881, is hereby amended by substituting the words "register of deeds" for the words "county clerk" wherever such words occur in said chapter.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

MARRIED WOMEN.

CHAPTER 98.

LEGAL AND PERSONAL IDENTITY OF WOMEN AFTER MARRIAGE.

AN ACT To Declare and Protect the Legal and Personal Identity of Married Women.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **RIGHTS OF MARRIED WOMEN.**] That from and after the passage of this act, woman shall retain the same legal existence and legal personality after marriage as before marriage and shall receive the same protection of all her rights as a woman, which her husband does as a man; and for any injury sustained to her reputation, person, property, character or any natural right, she shall have the same right to appeal in her own name alone to the courts of law or equity for redress and protection that her husband has to appeal in his own name alone; *Provided*, This act shall not confer upon the wife a right to vote or hold office, except as is otherwise provided by law.

§ 2. All laws or portions of laws inconsistent with the foregoing are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

Approved, February 17, 1887.

MECHANICS' LIENS.

CHAPTER 99.

NOT OBTAINED FOR LIGHTNING ROD IMPROVEMENTS.

AN ACT To Amend Section 655 of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AMENDMENT.] That section 655 of the Code of Civil Procedure, be and the same is hereby amended as follows, to-wit: By adding to said section the following: *Provided*, That the provisions of this section and chapter shall not be construed to apply to claims or contracts for furnishing lightning rods or any of their improvement.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

1887—17

THE MILITIA.

CHAPTER 100.

MILITARY CODE OF THE TERRITORY OF DAKOTA.

AN ACT To Amend an Act, Entitled "an Act to Amend Chapter Thirty (30) of the Political Code," Relating to the Territorial Militia.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHO COMPOSE MILITIA.] All able bodied male citizens residents of this Territory, being eighteen years of age and under the age of forty-five years, excepting persons exempt by law, shall be enrolled in the militia, and perform military duty in such manner, not incompatible with the constitution and laws of the United States as hereinafter prescribed.

§ 2. ASSESSOR MAKE LIST OF PERSONS.] It shall be the duty of the assessor of each of the counties of this Territory, when making the assessment of their respective counties, to make out a list containing the names of all persons in their respective counties liable to perform military duty, and file a copy of such list with the register of deeds in the county, to be by him kept as a matter of reference, and also to transmit to the Secretary of the Territory a copy, to be by him kept as a matter of reference in his office, which copy shall be filed in the offices of the persons afore mentioned on or before the first day of January in each year.

§ 3. WHEN AND HOW MILITIA CALLED INTO SERVICE.] The militia thus enrolled shall be subject to perform no active military duty, save and except in case of war, invasion, or to prevent invasion, riot or insurrection. In such case, the commander-in-chief is hereby authorized to order out, from time to time, for actual service, as many of the militia thus enrolled as necessity may require, and to provide for their organization in the manner hereinafter prescribed for the organization of volunteer militia; *Provided*, That in all such cases the organized volunteer militia shall first be ordered into service. The militia, while in active service shall be governed by the military law of the Territory, and the rules and articles of war of the United States; and when any troops are in the field for the purposes aforesaid in this section, the senior ranking officer of the troops present shall take command; *Provided*, That no person shall be eligible to a command

in the militia of this Territory, except citizens of the United States, or persons having declared their intention to become such.

§ 4. DAKOTA NATIONAL GUARD—HOW COMPOSED.] The organized militia of this Territory shall be known as the Dakota National Guard and shall consist of:

A battalion of artillery.

A battalion of cavalry.

Two regiments of infantry.

An adjutant general's department.

An inspector and judge advocate department.

A supply department.

An engineer and ordnance department.

A medical department, and such staff officers as may be necessary; *Provided*, That in the discretion of the Governor of the Territory but one battery of artillery and one troop of cavalry may be organized; and *Provided further*, That in the discretion of the Governor the troop of cavalry may be dispensed with.

§ 5. GOVERNOR, COMMANDER-IN-CHIEF—BRIGADIER GENERAL MAY SELECT AIDES-DE-CAMP.] The Governor of the Territory shall be the commander-in-chief of the militia, and may appoint as many aides-de-camp as he may deem necessary who shall have the rank of colonel. He may at his discretion organize the Dakota National Guard into a brigade, in which case he shall appoint a brigadier general to command the same. The brigadier general may select two aides-de-camp from the captains or lieutenants of the National Guard.

§ 6. COMMISSIONS—HOW ISSUED—TENOR OF.] All commissions shall be issued by the Governor, and shall continue during good behavior, or during the pleasure of the Governor.

§ 7. HOW EQUIPPED AND ORGANIZED—MAY BE INCREASED—WHEN.] The troops of the line that may be uniformed and equipped may at the discretion of the Governor be organized into a brigade under the command of the brigadier general, or senior officer, but the commander-in-chief shall have power to change the brigade organization, and in case of riot, invasion, or other imminent danger beyond the control of the civil authorities, to increase the numerical strength of existing organizations, or form new brigades, regiments and companies, as the exigencies of the service may require.

§ 8. ARTILLERY BATTALION—WHAT TO CONSIST OF.] The battalion of artillery shall consist of two batteries of two guns each, one major, one assistant surgeon with the rank of captain, one adjutant and one commissary of supply, each with the rank of first lieutenant, one sergeant-major, one sergeant of supply, one hospital sergeant and one chief trumpeter; *Provided*, That two batteries are organized.

§ 9. ARTILLERY BATTERY—WHAT TO CONSIST OF.] Each battery of artillery shall consist of two guns with one captain, one first lieutenant, one second lieutenant, one first sergeant, four ser-

geants, four corporals, two musicians, two teamsters, and not less than twenty nor more than forty privates, except as the commander-in chief may direct; *Provided*, That two troops are organized.

§ 10. CAVALRY BATTALION—WHAT TO CONSIST OF.] The battalion of cavalry shall consist of two troops, one major, one assistant surgeon with rank of captain, one adjutant and one commissary of supply, each with rank of first lieutenant, one sergeant-major one hospital sergeant and one chief trumpeter.

§ 11. CAVALRY TROOP—WHAT TO CONSIST OF.] Each troop of cavalry shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, one farrier, one saddler, two teamsters, and not less than twenty nor more than forty privates, except as the commander-in-chief may direct.

§ 12. INFANTRY REGIMENTS—WHAT TO CONSIST OF.] Each regiment of infantry shall consist of ten companies, one colonel, one lieutenant colonel, one major, one surgeon with rank of major, one adjutant, one commissary of supply, one assistant surgeon, and one chaplain, each with rank of captain, one sergeant major, one sergeant of supply, one hospital sergeant, one chief musician, one principal musician, one drum major, two color sergeants, and not more than twenty musicians.

§ 13. INFANTRY COMPANY—WHAT TO CONSIST OF.] Each company of infantry shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, and not less than twenty nor more than forty privates, except as the commander-in-chief may direct.

§ 14. COMMANDER-IN-CHIEF MAY DISCHARGE OR CONSOLIDATE—WHEN.] Whenever any troop, battery or company shall have less than the minimum number of privates fixed for each organization, the commander-in-chief may at his discretion discharge or consolidate such organizations, and all officers and men honorably discharged under the provisions of this section shall have given them a certificate of discharge, showing length of service, which time shall be credited to them in case of re-entering the service.

§ 15. WHO MAY ENLIST IN THE DAKOTA NATIONAL GUARD.] Able bodied men of good character and proper age may be enlisted in the National Guard for a term of three years, and after the expiration of first enlistment they may re-enlist at any time thereafter for terms of one or more years, at their option. And any person having an honorable discharge from the regular or volunteer service of the United States, or militia of this Territory may on enlisting in the National Guard be credited with length of service as shown by such discharge, but no person over forty-five years of age shall be re-enlisted except with the approval of the surgeon, and no enlisted man shall leave one organization to join another unless he shall be duly transferred.

§ 16. ENLISTED MEN ENTITLED TO DISCHARGE—WHEN.] Every

officer and enlisted men shall be held as in the service until properly discharged; and every enlisted man shall be entitled to, and receive his discharge and certificate of service on the expiration of his term of enlistment from his immediate commanding officer.

§ 17. OFFICERS AND MEN MAY BE TRANSFERRED—WHEN—DISCHARGED—WHEN.] Officers and men moving from one location to another in the Territory, may be transferred from one organization to another on application to the adjutant general, approved by their respective commanding officers. Any member of the guard moving permanently out of the Territory or the vicinity of the station of the organization to which he belongs, may be discharged and certificate of service furnished upon his own application, but any member of the National Guard who may move away from the vicinity of his company, or other permanent headquarters, or absent himself from all duty for six months, shall, unless proper explanation is accepted by his immediate commanding officer, be dropped from the rolls without discharge or certificate of service.

§ 18. ADJUTANT GENERAL DEPARTMENT.] The adjutant general's department shall consist of one adjutant general with the rank of brigadier general.

§ 19. DUTIES OF ADJUTANT GENERAL.] The adjutant general shall keep a register of all the officers and enlisted men of the military forces of the Territory; he shall make a full report on or before the first day of December in each year to the commander-in-chief upon the condition of the National Guard, and a detailed statement of all duty performed by them during the preceding year; he shall publish from time to time, as may be necessary, at the expense of the Territory; all laws, rules, regulations and orders relating to the military forces thereof, and distribute one copy to each commissioned officer and organization of the National Guard, and to such officers of the Territory as may be affected thereby; he shall cause to be prepared and issue all blanks, books, forms, and notices required for his office, or for the use of the National Guard, and all books and forms so furnished shall be the property of the Territory. The established seal of the office shall be transferred to his successor in office, and all copies of papers or records in his office, duly certified and authenticated under the said seal, shall be evidence in all cases in like manner as if the originals were produced. And on the certificate of the adjutant general the Auditor is hereby directed to draw his warrant on the Treasurer of the Territory, to be paid from the general fund, for the expenses incurred in carrying out the provisions of this section.

§ 20. ADDITIONAL DUTIES.] The adjutant general shall, in addition to his other duties, organize and conduct a "Bureau of Pensions" for the purpose of assisting ex-soldiers or sailors, residents of the Territory, who may apply for pensions for wounds or disability incurred in the service of the United States, in estab-

lishing their claims, without fee or commissions. The salary of the adjutant general shall be fifteen hundred dollars annually, which, with the necessary expenses incurred in conducting the bureau of pensions, office and clerk hire, furniture, fuel, lights, postage and stationery, not to exceed five hundred dollars per annum, shall be paid from the general fund by warrant drawn by the Auditor on the Treasurer of the Territory, on the order of the Governor.

§ 21. INSPECTOR AND JUDGE ADVOCATE GENERAL DEPARTMENT.] The inspector and judge advocate's department shall consist of one inspector and judge advocate general, with the rank of colonel. He shall perform such duties as directed by the commander-in-chief.

§ 22. SUPPLY DEPARTMENT.] The supply department shall consist of one chief of supply with rank of brigadier general, and two assistant (commissary of supply) with rank of major. The assistants shall be assigned to appropriate duties with the brigade.

§ 23. CHIEF OF SUPPLY—GIVES BOND—DUTIES OF.] The chief of supply, shall give a bond to the Territory in the sum of ten thousand (10,000) dollars in the usual form with two sureties, each in the amount of the bond, to be approved by the commander-in-chief, for the faithful discharge of his duties. He shall keep a just and true account of all expenses necessarily incurred for the military service of the Territory, and said accounts shall be paid on the order and approval of the commander-in-chief. He shall purchase and distribute to the National Guard all military stores and supplies authorized by law, shall pay all incidental expenses of the service, including transportation, freight, express, postage and telegrams on public business, shall pay the officers and members of the National Guard; shall furnish clothing, rations, tools, camp and garrison equipage, make contracts for and pay the rent for offices, armories, store houses, camp grounds, and such other duties authorized by law, as he may be directed to perform by the orders of the commander-in-chief.

§ 24. ENGINEER AND ORDNANCE DEPARTMENT.] The engineer and ordnance department shall consist of one chief of engineers and ordnance, with rank of colonel, and one assistant with the rank of major.

§ 25. DUTY OF OFFICERS.] It shall be the duty of the officers of this department to provide arms, ammunition and equipments for the National Guard, to inspect buildings, lay out camps, be inspectors of rifle practice, and to perform such other service as the commander-in-chief may direct.

§ 26. MEDICAL DEPARTMENT.] The medical department shall consist of one surgeon general with the rank of colonel, one medical purveyor with rank of lieutenant colonel, and one apothecary and storekeeper with rank of captain; but no person shall be appointed to this department or commissioned to similar duties in

this line unless he shall be a graduate of some legally incorporated school of medicine.

§ 27. DUTIES OF.] It shall be the duty of these officers, assisted by the medical officers of the line, to provide the necessary medical supplies, and care for the sick and wounded of the National Guard when on duty, and to perform such other service as the commander-in-chief may direct.

§ 28. GRADES BELOW THE RANK OF FIELD OFFICER TO BE FILLED BY ELECTION.] Every vacancy below the grade of field officer shall be filled by election, under such rules as the commander-in-chief may determine, and, in case of no election, he may appoint a suitable person to such office. The command-in-chief shall decide all appeals in election cases under this section, and order a new election in case he deem it necessary.

§ 29. RANK DETERMINED BY DATE OR ELECTION OF APPOINTMENT.] The respective rank of all officers shall be determined by the date of their election or appointment and the length of time of service, in the Dakota National Guard, as a commissioned officer of such rank; *Provided*, That in case of re-election or re-appointment his rank shall be determined by date of first commission.

§ 30. COMMANDING OFFICERS APPOINT THEIR STAFF—HOW. Commanding officers of regiments or battalions shall detail their staff officers from the officers or enlisted men of their command and appoint the non-commissioned officers of the organization by warrants. Staff officers so detailed will be dropped from the company rolls and the vacancy filled by promotion or appointment.

§ 31. COMPANY, TROOP OR BATTERY COMMANDERS APPOINT NON-COMMISSIONED OFFICERS—HOW.] Company, troop or battery commanders shall appoint non-commissioned officers of their commands, and forward the same to regimental or battalion headquarters, where a warrant shall be issued for the same, signed by the commanding officer.

§ 32. OFFICERS TO TAKE AND SUBSCRIBE OATH.] Every officer, before entering upon the duties of his office, shall take and subscribe to an oath of allegiance to the United States and the Territory of Dakota, which oath, duly executed, shall be filed in the office of the adjutant general.

§ 33. RECRUITS TO SIGN ENLISTMENT PAPERS—WHAT TO CONTAIN.] Every person recruited for the National Guard shall sign enlistment papers in triplicate, which shall contain an oath of allegiance to the United States and to the Territory of Dakota, and a resume of the duties to be performed. Said oath of allegiance shall be taken before the troop, battery, company or battalion commanders, and when duly executed one copy shall be forwarded to the adjutant general's office, one copy to the headquarters of the regiment or battalion, and the other copy filed with the official records of the organization to which the recruit is assigned.

§ 34. OFFICERS AND MEN MAY BE DISCHARGED—WHEN.] Offi-

cers and enlisted men of the National Guard may be discharged for physical or mental disability on the certificate of a surgeon, and under such rules and regulations as may be determined upon, but no honorable discharge shall be given any member of the National Guard until he shall produce a certificate from his immediate commanding officer that he has returned, or satisfactorily accounted for all the money or other property of the Territory or any organization of the National Guard issued to him or coming into his possession, and provided, no certificate of service shall include the time any member was absent from duty without leave, which time of absence shall in no case be allowed in computing length of service.

§ 35. DRILL, DISCIPLINE AND UNIFORM.] The drill, discipline and uniform of the National Guard shall be the same as that of the army of the United States; *Provided*, That nothing in this section shall be so construed as to require companies now uniformed to supply new uniforms in the place of those now worn, until such time as it shall become necessary to provide a new uniform, which new uniform shall be the same as worn by the United States regular army. The regulations of the army, articles of war and acts of Congress of the United States shall be authority, and govern in all cases not provided for by the laws of the Territory, or regulations and orders of the commander-in-chief.

§ 36. COMMANDER-IN-CHIEF TO APPOINT BOARD OF OFFICERS TO CODIFY MILITARY LAW.] The commander-in-chief shall, as soon after the passage of this law as practicable, appoint a board of three officers to codify the laws, articles of war, rules, regulations and orders for the government of the National Guards, which codification, approved by the Governor, shall be published to the guard, and shall govern the same. The commander-in-chief may, however, from time to time, as he may deem expedient, change the rules and regulations, but such changes shall in no way conflict with the provisions of this act. The laws, rules, regulations and orders published and issued in this manner shall have the same force and effect as the provisions of this act.

MILITARY DUTY REQUIRED.

§ 37. ANNUAL ENCAMPMENT.] There shall be an annual encampment, inspection and muster of all organizations of the National Guard, for at least six consecutive days, at such time and place as the commander-in-chief shall order and direct. No person shall be mustered at such time or allowed to appear as a part of the National Guard, unless he shall be duly commissioned or enlisted in the same, nor any member who does not appear uniformed, armed and equipped as required by the provisions of this act. Any officer who, knowingly or wilfully shall place or cause to be placed on such muster roll the name of any person not regularly or lawfully commissioned or enlisted, or the name of any

man who is dead, or has been discharged, transferred, or dropped, or has lost his membership for any cause whatsoever, or one who has been convicted of a felony or has refused to do military duty for the six months immediately preceding the annual inspection, shall be deemed guilty of a misdemeanor, punishable by a fine of not less than fifty, nor more than one hundred dollars, or he may be cashiered.

§ 38. WHAT REQUIRED OF EACH TROOP, BATTERY, OR COMPANY DURING THE YEAR.] In addition to the annual muster and inspection, each troop, battery or company, shall be obliged to perform during the year not less than five drills, parades, musters, and inspections. There shall also be not less than six additional drills, at such times as the commanding officer may determine. Other exercises may be had as the members of such organization shall prescribe in their by-laws by resolution. Any officer or man absent from any compulsory drill or parade, shall be fined or punished as fixed by the regulations.

§ 39. POWERS OF COMMANDING OFFICER.] The commanding officer at any parade, drill, muster, or other rendezvous, may cause those under his command to perform any military duty he may require, and may place in arrest during the time of such meeting, and confine under guard if necessary any officer or enlisted man who shall disobey the orders of his superior officer or in any way interrupt the exercises, and may remove any other person or persons who shall trespass on the parade ground or armory, or in any way interrupt the orderly discharge of duty of those under arms. He shall prohibit and prevent the sale or use of all spirituous liquors, wine, ale, or beer within the limits of the encampment, parade grounds or armory, and such limits shall be prescribed in orders by the officer commanding the parade or encampment, and also all hucksters, auction sales, gambling or games of chance, may at his discretion be abated as nuisances.

§ 40. TARGET PRACTICE.] To accustom the troops to the use of their arms, target practice must be encouraged. The commander-in-chief shall order such practice as the allowance of ammunition will permit, and he shall offer suitable medals, badges or trophies, to be inscribed and given in the name of the Territory to the persons and organizations, who upon competition shall show their superior attainments as marksmen. The provisions of this section shall be carried out under orders and regulations issued by the commander-in-chief; *Provided*, That not more than one hundred dollars shall be expended in any one year for the purchase of medals, badges, or trophies.

GENERAL PROVISIONS.

§ 41. OFFICERS AND MEN, HOW WARNED.] For the purpose of warning the officers, non-commissioned officers and other enlisted men for any parade, encampment or place of ren-

dezvous, the commanding officer shall issue his orders, under his hand, to such number of non-commissioned officers as he may deem necessary, requiring them respectively to warn each and every person belonging to the organization to appear at the place of rendezvous, in compliance with the order. Each non-commissioned officer, to whom such order shall be directed shall warn every person whom he shall therein be required to warn, by reading the orders, or stating the substance thereof in the hearing of such person, or by leaving a notice thereof at his usual place of abode or business, as appears by the roster, with some person of suitable age and discretion or by sending the same to him by mail, directed to him at his residence or postoffice nearest thereto. The return of service made by such non-commissioned officer to his commanding officer, sworn to and certified, shall be good evidence on the trial of any person returned as delinquent. In cases of riot, tumult, breaches of the peace, and in aid of the civil authorities, a verbal warning or order shall be sufficient.

§ 42. WHEN MEMBER EXCUSED.] The officer ordering a rendezvous of his command may, upon good and sufficient grounds, excuse any member thereof from attendance at the same.

§ 43. POWER OF COMMANDER-IN-CHIEF IN CASE OF PUBLIC DISTURBANCE.] The commander-in-chief shall have power, in case of insurrection, invasion, or breaches of the peace, or imminent danger thereof, to order into the active service of the Territory any or all of the National Guard, militia or other military organizations of the Territory that he may deem proper, and no member thereof who shall be ordered out by proper authority for such duty shall be held answerable by any court, nor liable to civil prosecution for any act or acts done by them in discharge of their lawful military duty on such occasions; and in such cases the forces called into service shall receive the same pay and allowance as provided in section fifty-six of this act.

§. 44. SHERIFF OR MAYOR MAY CALL OUT TROOPS—WHEN.] In case of any breach of the peace, tumult, riot or resistance to process of this Territory, or such imminent danger thereof as will not admit of delay, it shall be lawful for any sheriff of any county, or the mayor of any city to call, in writing, under his hand and seal, for aid upon the commandant of the National Guard stationed therein or nearest thereto, and it shall be the duty of such commanding officer upon whom the call is made, to order out in aid of the civil authorities, such portion of his command, armed and equipped, as may be necessary to overcome the resistance and vindicate the supremacy of law, and he shall immediately report to the commander-in-chief all that has been done and the circumstances of the case, and the forces called into service by such orders shall receive the same pay and allowances as provided in section fifty-six of this act, and the amount of such pay and allowances shall be a portion of the county and city charges of said

county or city from the Territory, to be levied and raised as other charges are levied and raised.

§ 45. MEMBER OF NATIONAL GUARD DEEMED DESERTER—WHEN.] Any member of the National Guard ordered into service under the provisions of the two preceding sections who does not appear at the time and place fixed by his commanding officer, or who does not produce a certificate from a physician in good standing of physical disability shall be deemed a deserter, and punished according to the rules and articles of war.

COURTS MARTIAL.

§ 46. ARTICLES OF WAR OF THE UNITED STATES ADOPTED—WHEN.] The articles of war governing the Army of the United States, so far as they are practicable and not incompatible here-with, are hereby adopted for the government of the National Guard and Militia of this Territory with the following exceptions: The commander-in-chief is alone authorized to order general courts martial and courts of inquiry; battalion or other superior commanders may order garrison courts martial, which are authorized to try all offenders. The maximum number of members of these courts is fixed as follows: General courts, seven members, courts of inquiry and garrison courts martial, five members Minimum number, general courts five members, and courts of inquiry and garrison courts, three members each, as the exigencies of the service permit.

§ 47. FINES—HOW DISPOSED OF.] Fines of offenders under the preceding section may be paid to the court or to the treasurer of the organization to which the offender or offenders belong. All fines imposed and collected shall be deposited to the credit of the clothing and equipment fund of the organization to which the member paying the fine belongs, or if a staff officer to the general fund of the Territory. A receipt for money so deposited will be forwarded for file with the proceedings of the court in such case.

§ 48. COURTS MARTIAL MAY COMPEL THE ATTENDANCE OF WITNESSES—ADMINISTER OATHS, ETC.] Any court authorized by this act shall have the same power as other courts of the Territory to compel the attendance of witnesses through the senior officer or president of the court, and to administer oaths to such witnesses, who shall issue subpoenas for all witnesses that may be deemed necessary by the court. He may issue attachment for the witness, and all sheriffs, jailors, and constables are hereby required to execute any precept issued by such president or court for that purpose. The person attached for non-attendance shall pay the usual fees for such service, besides the penalty provided, unless he satisfies the court that his failure to attend was excusable. Every witness not appearing in obedience to such subpoena when duly served with a copy of the same, and not having a sufficient excuse shall forfeit to the people of this Territory a sum not less

than one nor more than ten dollars, to be paid and credited as fines for similar offences before other courts of the Territory.

§ 49. POWER TO PUNISH FOR CONTEMPT.] Any person or persons behaving in a disrespectful manner, or using any insulting language before any military court, or to a member thereof in open court, intending to disturb or impair the authority of such court, may be punished for contempt of court by confinement in the jail of the county in which the court sits, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff, or any or either of the constables or marshals of any such county, or the officer attending the court, and shall set forth the circumstances of the offense adjudged to have been committed, and shall command the officer to whom it is directed to take the body of such person and commit him to jail of the county, there to remain without bail and in close confinement, for a limited time, not to exceed three days, and until the officer's fees for committing, and the jailor's fee, be paid. Such sheriff shall obey the warrant and keep the person as directed, unless he is discharged by a judge of a court of record in same manner and under the same rule as in cases of imprisonment under process of contempt from a court of common law jurisdiction.

§ 50. SHERIFF OF COUNTY MARSHAL OF COURT.] A military court sitting in any county shall be attended by the sheriff of the same, or some suitable person designated by him who shall be the marshal of the court and perform the usual duties of such marshals, and execute any process lawfully issued by such court, and perform all acts and duties by this act imposed on, and authorized to be performed by any sheriff, marshal or constable and the officer ordering the court shall furnish a copy of his order to the sheriff of the county where the court is directed to meet, which order shall be notice to the sheriff to appear, or designate some one as marshal of the court.

§ 51. CONVERSION OF MONEY BY MARSHAL—EMBEZZLEMENT—COMPENSATION OF MARSHAL.] To every marshal appointed to a military court, shall be paid two dollars for every day's attendance before the court, and actual necessary traveling expenses while engaged in serving subpoenas or executing any process of the court, the same to be paid on the certificate of the president of the court as to number of days employed and other duties performed, and in like manner with other accounts of the Territory, but no marshal shall receive any fees from the person served, and any refusal or neglect on the part of the sheriff or marshal to execute any warrant herein required, or make return and pay over all the money collected as fines, shall subject the officer so offending to double the amount of such fines and penalties. The conversion to his own use of moneys so collected by any sheriff or marshal shall be deemed embezzlement, and punished as such in any court of the Territory having jurisdiction of such cases.

§ 52. FINES—HOW COLLECTED.] For the purpose of collecting fines imposed by courts martial, the president of the court shall within twenty days after the proceedings of the court have been approved, make a list of all the persons fined, describing them distinctly and showing the sums imposed on each person, and not paid. He shall then draw his official warrant directed to the sheriff of the county, or the marshal of the court, commanding him to levy such fine, together with the costs, on the goods and chattels of the delinquent, sale thereof to be made as provided by law, and no property shall be exempt from payment of such fines and penalties. In default of sufficient goods and chattels to satisfy the same, then such sheriff, marshal or constable shall take the body of such delinquent and confine him in the county jail, whose jailor shall keep such delinquent closely confined without bail or mainprize for two days for any fine or penalty not exceeding five dollars and one additional day for every dollar above that sum, unless the fine with the costs and jailor's fees be sooner paid; but no such imprisonment shall extend beyond ten days, and the officer ordering the court may remit the fines and penalties imposed.

§ 53. WHEN MEMBERS OF GUARD REFUSE OR NEGLECT TO PAY FINE.] Any member of the National Guard fined by a general or other court martial who shall neglect or refuse to pay such fine within twenty days after the same was imposed, may be published in orders by the officer ordering the court, and dishonorably dismissed from the service without allowance of time he has served and disqualified from serving in the National Guard for three years. For offences against the by-laws, rules and regulations of any organization any dues may be collected by court martial as provided in this act.

§ 54. ACTION AGAINST MEMBERS OF MILITARY COURT.] No action shall be maintained against any member of a military court on account of the imposition of a fine or penalty, or for the execution of a sentence on any person, if such person shall have been returned as delinquent, and duly summoned before such court, or shall have appeared before such court to answer the charges made against him.

§ 55. NO ACTION, WHEN.] When a suit or proceedings shall be commenced in any court by any person against any officer of the National Guard of this Territory for any act done by such officer in his official capacity in the discharge of any duty under this act, or against any person acting under authority or order of such officer, or by virtue of any warrant issued by him pursuant to law. The judge advocate general, or some officer designated by the Governor shall appear for him, and the plaintiff in such suit may be required to file security for the payment of the costs that may be incurred by the defendant in such suit or proceedings. In case the plaintiff shall be non-suited, or have verdict or judgment rendered against him, the defendant shall recover treble

costs, and such attorney's fees as the court shall allow, which said fees shall in the first instance be paid by the Territory, and be refunded by defendant upon collection of the judgment.

§ 56. COMPENSATION OF OFFICERS AND MEN.] There shall be allowed and paid, as hereafter provided, to such officers and enlisted men as shall be ordered into active service, or to attend annual encampments, in pursuance of the provisions of this act, the following sum each, for every day actually on duty, or going to and returning from the same, and the certificate of the officer ordering the duty shall be evidence of such service.

To musicians, privates, and teamsters, seventy-five cents;
To corporals, farriers, and saddlers, one dollar;
To sergeants and drum-majors, one dollar and fifteen cents;
To first sergeants, principal musicians and chief trumpeters, one dollar and twenty-five cents;
To sergeant majors, sergeants of supply, hospital sergeants, and chief musicians, one dollar and fifty cents;
To second lieutenants, one dollar and seventy-five cents;
To first lieutenants, one dollar and seventy-five cents;
To captains and company commanders, two dollars;
To lieutenant-colonels, majors, or battalion commanders, two dollars and twenty-five cents;
To brigadier general and colonel, three dollars;
To staff officers the same as officers of like grade in the line or field.

§ 57. MEMBERS OF GUARD TO PROVIDE HORSES—COMPENSATION FOR SAME.] All members of the National Guard that are required to be mounted shall provide for their own use a horse and horse equipments, but shall be allowed forage for the same when on duty, and be paid the sum of one dollar for each day such horse may be on duty in the service of the Territory, or as may be provided in this act. And the sums, authorized by this section shall be paid by the chief of supply in such manner as the commander-in-chief may direct.

§ 58. COMPENSATION OF OFFICERS DETAILED ON COURTS OR UNDER ORDERS.] All officers detailed to serve on any board or commission ordered by the commander-in-chief, or on any court of inquiry, court martial or delinquency court ordered by the proper authority in pursuance of any provisions of this act, shall be paid their subsistence and actual traveling expenses, and for each and every day actually employed in said board or court or engaged in the business thereof or in travelling to and from the place of meeting of said board or court, a sum equal to one day's pay for field duty.

§ 59. COMPENSATION OF OFFICERS AND MEN ON DUTY.] All officers and enlisted men of the National Guard while on duty in camp, or assembled pursuant to the order of the commander-in-chief, or the sheriff of any county, or the mayor of any city, shall receive the compensation provided in section fifty-six of this act,

and also their subsistence in kind, or commutation thereof, and their transportation or mileage. The rates of commutation or mileage, to be fixed by order of the commander-in-chief.

§ 60. CLOTHING AND EQUIPMENT FUND—HOW CONSTITUTED.] On the certificate of the adjutant general each regimental headquarters, staff and band, battalion and staff, troop, battery or company shall be allowed annually a sum equal to seven dollars for each of its officers and men present for duty, based upon the per centage present for duty, for the year at the five compulsory parades required in section thirty-eight of this act, and the annual muster and inspection, which per centage shall be certified to by the adjutant general, which sums together with fines and penalties collected from delinquent officers and men, shall constitute the clothing and equipment fund of such organization and the clothing and equipment purchased with this fund shall be the property of the Territory.

§ 61. TRANSPORTATION.] The officers and members of the National Guard shall be allowed free transportation for themselves, their horses and equipments and the property of the Territory, going to and returning from any service authorized or directed by law, their subsistence in kind or commutation therefor and their quarters, tents and camp equipments, and the chief of supply and the officers of his department will at all times be prepared to furnish these things as may be required by orders of the commander-in-chief.

§ 62. PROPERTY EXEMPT FROM TAXATION.] All property belonging to any organization of the Dakota National Guard, shall be exempt from taxation, or assessment for any purpose whatever, and in case any such organization shall erect or purchase an armory or assembly room, the annual rent of the same authorized in section twenty-two of this act may be paid into the treasury of such organization.

§ 63. ARMORY RENT—HOW PAID.] The commanding officer of each company, troop, or battery, and the treasurer of each regimental band, shall provide suitable room or rooms at a convenient place in the town where each organization is located or stationed with the necessary furniture, fuel, lights, drawers, lockers, closets, and gun racks, for an armory, assembly and drill room for such organization, and said room or rooms shall be under the exclusive control of the commanding officer. There shall be an annual appropriation of three hundred dollars from the militia fund for the rent and furnishing of such armory or band quarters of each organization of the National Guard, to be paid of [by] the Territory.

§ 64. NATIONAL GUARD EXEMPT FROM JURY DUTY AND POLL TAX.] Every member of the Dakota National Guard shall be exempt from jury duty, and from the payment of poll tax.

§ 65. MEMBERS OF NATIONAL GUARD EXEMPT FROM ARREST ON CIVIL PROCESS WHILE ON DUTY—HAVE RIGHT OF WAY ON HIGH-

WAY.] No person belonging to the military forces shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty. Any portion of the National Guard, performing any duty, according to law, shall have the right of way in any street or highway through which they may pass; *Provided*, the carriage of the United States mails, the legitimate functions of the police, and the progress and operations of fire engines and fire departments, shall not be interferred with thereby.

§ 66. OFFICERS TO REPORT—WHEN.] Every officer who receives arms, accoutrements, clothing, camp equipage, rations or stores of any kind for the use of his command, or for issue to troops, shall render the chief of the department furnishing the same a report or return of such supplies, according to the forms which may be prescribed, and such reports shall be furnished when called for, but not oftener than once in two months.

§ 67. MILITARY OUTFITS OR SUPPLIES CANNOT BE SOLD OR GIVEN AWAY.] The clothing, arms, military outfits, accoutrements and stores furnished by the Territory to the National Guard shall not be sold, bartered, exchanged, pledged, loaned or given away and the possession of any such property by any person not a member of the Guard shall be *prima facie* evidence of such sale, barter, exchange, pledge, loan or theft. Such property may be seized and taken from any person not authorized to keep the same, by any officer, soldier, civil or military, of the Territory, and shall thereupon be delivered unto any officer of the Territory authorized to receive the same.

§ 68. LOST OR STOLEN PROPERTY—HOW VALUED.] All property of the Territory that may be lost, stolen, damaged or destroyed in the military service, shall be acted upon by a disinterested inspector or officer, detailed as such, who shall make full investigation and report of all the facts and circumstances of the case, and if any person is found or deemed responsible for the loss or damage of the property beyond reasonable wear and tear of the services, the inspector shall assess and fix a reasonable value on the property lost, damaged or destroyed, and such person shall pay the sum so assessed into the treasury of the Territory. And in event of such person's failure or neglect to reimburse the Territory, suit may be entered in the name of the Territory in any court of competent jurisdiction for the recovery of the same under such regulations as the Governor shall prescribe.

§ 69. APPROPRIATION.] For the purpose of camping out, the provisions of chapter thirty of the Political Code of the Territory of Dakota, as herein amended, there is hereby appropriated annually, in addition to the amount heretofore appropriated, the sum of three thousand (3,000) dollars, or so much thereof as may be necessary, out of any money in the Territorial Treasury not otherwise appropriated, and all warrants against said appropriation shall be drawn by the Territorial Auditor upon the Terri-

torial Treasurer, upon the certificate of the adjutant general, approved by the Governor.

§ 70. All acts or parts of acts conflicting with the provisions of this act are hereby repealed, and this act shall be known, entitled and referred to as the Military Code of the Territory of Dakota, and shall take effect on and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 101.

DEFICIENCY APPROPRIATION FOR ARMORY RENT.

AN ACT Entitled "An Act to Appropriate Funds to Reimburse the Territorial Militia for Armory Rent and for Other Purposes."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. RENT OF ARMORY—HOW PAID.] That there is hereby appropriated, out of any funds in the Territorial Treasury not otherwise appropriated, the sum of one hundred and fifty-five dollars for each company in the first and second regiments of the Territorial Militia, to pay for armory rent for the past two years for which no funds were provided by law.

§ 2. EXPENSES OF SUPPRESSING RIOTS AND INSURRECTIONS—HOW PAID.] That there be appropriated out of any funds in the Territorial Treasury not otherwise appropriated, a sufficient sum, not to exceed six thousand dollars, to pay any expenses which may be incurred by reason of the Territorial Militia being called out by the Governor of the Territory, for the purpose of suppressing riots, quelling insurrections, or executing the laws of the Territory; *Provided*, That such expenses are incurred within the boundaries of the Territory.

§ 3. TERRITORIAL AUDITOR TO DRAW WARRANT.] The Territorial Auditor is hereby empowered and required to draw his warrant upon the Territorial Treasurer, in favor of the commanding officer of each of the companies of the Territorial Militia, organized for one year past for the sum of one hundred and fifty-five dollars to carry out the provisions of section one of this act.

§ 4. This act shall take effect and be in force from and after the passage and approval of this act.

Approved, March 11, 1887.

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CHAPTER 102.

DEFICIENCY APPROPRIATION FOR ARMORY RENT FOR REGIMENTAL BANDS.

AN ACT To Make an Appropriation for the Payment of Armory Rent of the Regimental Bands of the Dakota National Guard.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATED.] That the sum of three hundred (300) dollars be hereby appropriated to pay armory rent for the first regimental band of the Dakota National Guard for the year 1886, and the sum of (600) six hundred dollars to pay the armory rent of the second regimental band of the Dakota National Guard for the years 1885 and 1886.

§ 2. AUDITOR TO EXAMINE AND ALLOW CERTAIN CLAIMS.] The Auditor of the Territory of Dakota, is hereby authorized and empowered to hear, determine and audit certain claims of said bands for armory rent, and the said Auditor is empowered to issue his warrant in favor of the treasurer of said bands upon the Territorial Treasurer, for such sum or sums as he may allow said bands, and the Treasurer is hereby directed to pay the amounts named in such warrants out of any money in the treasury not otherwise appropriated.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 103.

APPROPRIATION FOR ENCAMPMENT HELD IN 1885.

AN ACT To Appropriate Funds to pay Expenses Incurred by Territorial Militia, at Territorial Encampment Held at Fargo, Dakota, in September, 1885.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION FOR TENTS.] The Auditor of the Territory of Dakota is hereby authorized and empowered to hear, determine, and to audit a certain claim against S. H. Jumper, A. A.

Rowley, John T. McChesney and H. M. Marple, to pay for the use of tents at the Territorial Militia encampment, held at Fargo, Dakota, in September and October, 1885, and for damage to the same, and freight paid thereon, not exceeding the sum of four hundred, ninety-one and fifty-two one-hundredths (491.52) dollars; and the said Auditor is empowered to issue his warrant upon the Treasurer for such sum or sums as he may allow said Jumper, Rowley, McChesney and Marple, and the Treasurer is hereby directed to pay the amount mentioned in such warrant out of any money in the Treasury not otherwise appropriated.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

MUNICIPAL CORPORATIONS.

CHAPTER 104.

RELATIVE TO EXTENSION OR RESTRICTION OF CITY LIMITS BY ORDINANCE.

AN ACT To Provide for Extending or Restricting the Limits of Incorporated Cities and Towns.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LIMITS MAY BE EXTENDED.] That on petition in writing, signed by not less than three fourths of the legal voters, and by the owners of not less than three fourth (in value) of the property in any territory contiguous to any incorporated city or town, and not embraced within the limits thereof, the city council of the city or the board of trustees of the town, as the case may be, may by ordinance annex such territory to such city or town, upon filing a copy of such ordinance with an accurate map of the territory annexed, (duly certified by the mayor of the city or the president of the board of trustees of the town), in the office of the register of deeds of the county where the annexed territory, or the greater portion of it is situated, and having the same recorded therein.

§ 2. LIMITS MAY BE RESTRICTED.] On petition, in writing, signed by not less than three-fourths of the legal voters, and by the owners of not less than three-fourths (in value) of the property, in any territory within any incorporated city or town, and being upon the border and within the limits thereof, the city council of the city, or the board of trustees of the town, as the case may be, may disconnect and exclude such Territory from such city or town; *Provided*, That the provisions of this section shall only apply to lands not laid out into city or town lots or blocks.

§ 3. NOTICE OF PRESENTATION OF PETITION TO BE PUBLISHED.] No final action shall be taken by the city council or the board of trustees, as the case may be, upon any petition presented, in pursuance of the provisions of sections one and two of this act, until notice of the presentation of such petition has been given, by the petitioners by publication at least once in each week, for two successive weeks, in some newspaper published in the city or town where the petition has been presented; or if no newspaper be published in such city or town, then in the newspaper published nearest to such city or town.

§ 4. PETITION PRESENTED TO DISTRICT COURT, WHEN.] Upon the failure of the city council, or the board of trustees, as the case may be, to grant the request contained in a petition presented in accordance with the provisions of sections one or two of this act, for thirty days after the last publication of the notice provided for in section three, or upon a refusal to grant such request, the petitioners may present their petition to the district court of the county, in which such city or town or the greater portion of it is situated, by filing such petition with the clerk of said court. Notice of such filing shall be served by the petitioners upon the mayor of the city, or the president of the board of trustees of the town as the case may be, together with a notice of the time and place when and where a hearing shall be had upon such petition, least ten days before the date of such hearing. The hearing on the petition may be had at a regular or special term of the district court, or by the court in vacation.

§ 5. DUTY OF COURT.] If upon the hearing, the court find that the request of the petitioners ought to be granted and can be so granted, without injustice to the inhabitants or property intrusted, the court shall so order. If the court shall find against the petitioners, the petition shall be dismissed at the cost of the petitioners.

§ 6. MAP OF ADDED TERRITORY TO BE FILED.] When any Territory is annexed by ordinance, or by a decree or order of court, to any city or town, as provided in this act, it shall be the duty of the mayor of the city, or of the president of the board of trustees of the town, as the case may be, to cause an accurate map of such added territory, together with a copy of the ordinance for the annexation, or a copy of the decree or order of court therefor, duly certified, to be filed and recorded in the office of the register of

deeds of the county in which such added territory, or the greater portion of it, is situated. If territory is disconnected or excluded from any city or town, a copy of the ordinance or decree therefor shall be so filed and recorded, at the expense of the petitioners therefor.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

§ 8. This act shall be in force and take effect from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 105.

GRANTING POWER TO PROVIDE FOR CERTAIN PUBLIC IMPROVEMENTS.

AN ACT To Enable Cities and Municipal Corporations to Purchase, Erect, Lease, Manage and Maintain Systems or Parts of Systems of Water Works, Telegraphic Fire Signals and Fire Apparatus.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **WATER WORKS AND FIRE ALARMS.]** All towns, cities and municipal corporations in this Territory having a population of one thousand (1,000) inhabitants or more are hereby authorized and empowered to purchase, erect, lease, rent, manage and maintain any system or part of system of water works, hydrants and supply of water, telegraphing fire signals, or fire apparatus that may be of use in the prevention and extinguishment of fires; and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected. The common council or board of trustees of such city or municipal corporation are hereby empowered and authorized to assess, levy and collect taxes for the purposes aforesaid, and to do all acts necessary to carry such lease and contracts of purchase, erection or maintenance into effect, and to pay the stipulated rent or contract prices for the property so leased, purchased, erected or to be maintained, excepting, however, that any such lease or contracts for purchase, erection or maintenance, which shall stipulate for an annual payment greater than an annual levy of five (5) mills on each dollar of the assessed valuation of such city or municipal corporation, shall not be authorized until the contract providing therefor shall first have been submitted to a vote of the people

of such city or municipal corporation at any general or special election, and ratified by a majority of the voters of said city or municipal corporation, voting at such election.

§ 2. HOW TO BE CONSTRUED.] This act shall not be construed to modify or affect the power of any city or town, or the powers of the common council or board of trustees thereof, as authorized and granted by the charters of such cities or towns, or the laws under which they were incorporated, where said charter or law shall have expressly given to such city the power to lease, rent or maintain the property described in this act.

§ 3. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, Dak., March 10, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 106.

POWERS OF BOARDS OF TRUSTEES.

AN ACT to Amend Section Twenty-two (22) of Chapter Twenty-four (24) of the Political Code, Entitled "Incorporation of Towns and Cities."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. POWER OF BOARD OF TRUSTEES.] That section twenty-two, of chapter twenty-four, of the Political Code, be and the same is hereby amended, by adding the following subdivision: "No. 20. To authorize the construction and maintenance of street railways, water mains and water pipes and gas mains and gas pipes along, through the streets and alleys within the corporate limits, and to grant franchises and rights to persons, associations or corporations for such purposes, and to regulate the same."

§ 2. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, DAK., March 8, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 107.

LOCATION OF ALLEYS.

AN ACT To Provide for the Location of Alleys in Cities and Incorporated Towns and Villages.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PETITION NECESSARY.] That whenever a majority of the resident owners of real estate situated in any block or subdivision of any city or incorporated town or village, in the Territory of Dakota shall be desirous of locating an alleyway through such block or subdivision when said block or subdivision contains no alleyway, they shall, after having given notice of their intention so to do, by publishing notice thereof in a newspaper printed and published in the city or incorporated town or village, wherein said block or subdivision is situated, for three consecutive weeks, once in each week, prior thereto, present their application in writing to the judge of the district court of the county wherein said city or incorporated town or village is located, describing the proposed location of the proposed alleyway.

§ 2. JUDGE TO APPOINT COMMISSION TO APPRAISE DAMAGES.] Upon the presentation to him of the said application, together with due proof of publication of the notice required in the preceding section, the judge shall appoint three commissioners to appraise the damages if any, to the property in the block or subdivision wherein said alleyway is sought to be located. Said commissioners in their appraisement may and shall take into consideration and offset any advantage to abutting property, against the damages thereto.

§ 3. DUTY OF COMMISSIONERS—DAMAGES AND COSTS ASSESSED AGAINST PROPERTY.] Said commissioners shall thereupon locate said alleyway and make their return forthwith to said court, which return shall contain a plat of the block or subdivision showing the location of the proposed alleyway, a statement of the damages to each lot or parcel of land in said block or subdivision, together with the aggregate amount of the damages, and if the said location be granted by the court, said damages and all costs of the proceedings shall be entered up against said block or subdivision, and be a first lien thereon against each lot or parcel in proportion to the assessed valuation thereof by the last assessment next preceding the date of the granting of said order, and shall be by the clerk of said court certified to the county clerk of the county in which said city or incorporated town or village is

situated, who shall, in making out the duplicate assessment and tax of said county next thereafter, enter said sums therein in a separate column, opposite the description of the property against which the taxes so remain unpaid, and such taxes shall be collected in the same manner, and by the same person as the general taxes of said county are collected, and shall, when so collected be paid over to the person entitled thereto.

Approved, March 11, 1887.

CHAPTER 108.

RELATIVE TO TOWN AND CITY LOTS.

AN ACT To Amend Section Two (2) of Chapter Twenty-six (26) of the Political Code, Entitled "Town and City Plats."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LOTS AND SQUARES NUMBERED.] Section two (2) of chapter twenty-six (26) of the Political Code, is hereby amended so as to read as follows: All the in-lots intended for sale, shall be numbered in progressive numbers, or by squares in which they are situated, and their precise length and width shall be stated on said map or plat; and out-lots shall in like manner be surveyed and numbered, and their precise length and width stated on the plat or map, together with any streets, alleys, or roads which shall divide or border the same.

§ 2. This act shall take effect from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 109.

RELATIVE TO VACATION OF TOWN PLATS.

AN ACT in Relation to the Vacation of Town Plats.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TOWN AND CITY PLATS, HOW VACATED.] Any plat of any town or city or addition thereto, or any subdivision of land may be vacated by the proprietors thereof at any time before the sale of any lots therein; by a written instrument declaring the same to

be vacated, duly executed, acknowledged or proved and recorded in the same office with the plat to be vacated; and the executing and recording of such writing shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, commons and public grounds laid out as described in such plat. And in cases where any lots have been sold, the plat may be vacated as herein provided by all the owners of lots in such plat joining in the execution of the writing aforesaid; *Provided*, That this act shall not be construed as applying to any of the territory included within the limits of any incorporated city, town or village created and organized under and by virtue of a special act of the legislature.

§ 2. PART OF PLAT VACATED—HOW.] Any part of a plat may be vacated under the provisions and subject to the conditions of this chapter; *Provided*, Such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat; and, *Provided, further*, That nothing contained in this section shall authorize the closing or obstructing of any public highways laid out according to law.

§ 3. PROPRIETORS' RIGHTS WHEN VACATED.] When any part of a plat shall be vacated as aforesaid, the proprietors of the lots so vacated may inclose the streets, alleys and public grounds, adjoining said lots in equal proportion.

§ 4. REGISTER OF DEEDS TO MARK PLAT "VACATED."] The register of deeds, in whose office the plats aforesaid are recorded, shall write in plain, legible letters across that part of said plat so vacated the word "vacated," and also make a reference on the same, to the volume and page in which the said "instrument of vacation" is recorded.

§ 5. OWNER OF PART OF VACATED PLAT MAY PLAT AGAIN.] The owner of any lots in a plat so vacated, may cause the same and a proportionate part of adjacent streets and public grounds to be platted and numbered by the county surveyor, and when such plat is acknowledged by such owner, and is recorded in the record office of the county, such lots may be conveyed and assessed by the numbers given them on such plat.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 110.

OF CHANGING OF NAME, NUMBER AND BOUNDARY OF WARDS.

AN ACT To Enable Towns and Cities to Change the Name, Number and Boundary of Wards.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. MAJORITY OF LEGAL VOTERS MAY PETITION.] That when a petition shall be presented to the mayor and council of any town or city, incorporated under any special or general act of the Territorial Legislature, signed by a majority of the legal voters of said town or city, the majority to be determined by the number of names on the poll list of the last regular election, praying for a change in the name, number or boundary of wards of said town or city, the council of such corporation shall at once cause to be published in a weekly newspaper of the town or city in at least three issues, a notice of the day and hour, together with the place of meeting, in which they will consider such petition.

§ 2. COUNCIL MAY ORDER CHANGE—HOW, WHEN.] If it shall appear to the council that the change petitioned for, is desirable, and for the best interests of the town or city, the council may by a majority vote of all the members elect, order the change desired, but no such change shall take effect until the next regular election.

§ 3. PLATS AND RECORDS—CORPORATION ATTORNEY TO CHANGE.] The council shall order the corporation attorney to cause such needful changes in papers, plats, and matters of record, as the change made may demand.

§ 4. DUTY OF CITY CLERK.] It shall be the duty of the town or city clerk to make such changes in assessment lists as the change in wards necessitates.

§ 5. MANNER OF HOLDING ELECTION IN NEW WARD.] Ten days before the next regular election, the council shall designate the proper polling place or places, for the new ward or wards, appoint judges, clerks, and make all necessary provisions for holding the election in the new ward or wards, naming the several officers to be chosen.

§ 6. All acts and parts of acts, either general or special, in conflict with this act are hereby repealed.

§ 7. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 111.

POWER TO LAY OUT, OPEN, IMPROVE AND VACATE STREETS
AND ALLEYS.AN ACT Authorizing Municipal Corporations, to Lay Out, Open, Improve,
and Vacate Streets and Alleys and for Other Purposes.*Be it Enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. POWER TO OPEN, IMPROVE AND VACATE STREETS AND ALLEYS.] Any city, town, or village, organized under and by virtue of a special act or charter, or under and by virtue of any general law of the Territory of Dakota, is hereby authorized and empowered by and through its proper municipal officers to lay out, open, grade and otherwise improve the streets, alleys, sewers, sidewalks and crossings therein, and to keep them in repair and to vacate the same.

§ 2. All acts and parts of acts, either general or special, in conflict with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

NORMAL SCHOOL.

CHAPTER 112.

SPEARFISH—AUTHORIZING ISSUE OF BONDS FOR ERECTION AND FURNISHING OF ADDITION.

AN ACT To Provide for the Extension of the Spearfish Normal School, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BONDS TO BE ISSUED.] That for the purpose of providing funds for the erection and furnishing of an addition to the Normal School building at Spearfish, Dakota Territory, the Territorial Treasurer is hereby authorized and empowered, and it is made his duty, to prepare for issue twenty-five thousand (25,000) dollars of Territorial bonds, running for a term of ten (10) years, and bearing interest at the rate of five (5) per cent. per annum, with coupons attached, made payable semi-annually on the first days of July and January of each year. Such bonds shall be executed under the seal of the Territory, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 2. TREASUAER TO RECEIVE PROPOSALS.] It shall be the duty of the Treasurer to receive proposals for the purchase of said bonds, and upon request of the board of trustees he shall give public notice for thirty (30) days in two (2) newspapers of general circulation, one (1) of which shall be published in the city of New York, and said bonds shall be sold to the highest bidder for cash; *Provided*, That said bonds shall not be sold for less than their par value.

§ 3. BOND TAX.] To secure the prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time other taxes are levied, and collected in the same manner as other Territorial taxes are collected, such sum as shall be sufficient to pay such interest and exchange thereon, and after six (6) years from the first day of May, 1887, and in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year,

such interest as shall then be due, and to purchase said bonds at their par value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received, and no tax or bonds, either principal or interest, shall at any time be used for any other purpose; *Provided*, That when the sinking fund tax is sufficient to redeem any or all of said bonds, it shall be the duty of the Territorial Treasurer to call in said bonds for payment, by notice to the holders thereof, either personal or by publication, and interest shall cease upon all bonds called within ninety (90) days from the date stated in such notice.

§ 4. PAYMENT OF INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient funds herein provided, to pay the interest upon such bonds when due, he shall pay such interest out of any other unappropriated funds belonging to the Territory; and there is hereby appropriated and set apart out of the general funds belonging to the Territory, a sum sufficient to pay such interest on said bonds, as may become due, before the funds and tax herein provided, can be made available; and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 5. FUNDS TO BE REPLACED.] All moneys belonging to the general Territorial fund, applied by said Treasurer in payment of the interest on said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury, all the funds realized by the sale of the bonds provided for in this act, for the erection and furnishing of an addition to the Normal School building, twenty-five thousand (25,000) dollars.

§ 7. DUTY OF AUDITOR.] It shall be the duty of the Auditor of the Territory, upon the application of the board of trustees, or a majority thereof, to draw warrants on the Territorial Treasurer to carry out the provisions of the aforesaid act.

§ 8. PLANS AND SPECIFICATIONS—PROPOSALS.] The board of trustees of the Spearfish Normal School, shall immediately upon the passage and approval of this act, prepare or cause to be prepared, plans and specifications for building the additions and improvements enumerated in section one (1) of this act, and after the same shall have been adopted and approved by them, and the Governor of the Territory, said board of trustees shall cause said plans and specifications to be filed with their secretary, and it shall be the duty of said board within twenty (20) days thereafter, to give public notice, which notice shall be inserted for thirty (30) days in two (2) newspapers published in the Territory and of general circulation therein, and in two (2) newspapers in other states; and that on a day and hour specified in such notice they will receive sealed proposals, at the office of the secretary of the board of trustees, of the Spearfish Normal School, according to plans and specifications aforesaid, which shall be open for inspec-

tion of bidders, at the office of the secretary of the board, or at such place as the board of trustees may designate.

§ 9. TOTAL COST.] The cost of said addition and improvements, and the furnishing and equipping throughout, of the addition with necessary furniture, steam heating, water supply, sewerage and other essentials of completion, shall not exceed the sum of twenty-five thousand (25,000) dollars, and shall be used in the manner provided in section one (1) of this act.

§ 10. AWARD OF CONTRACT.] On the day advertised for the opening of said proposals for erecting and completing the said additions and improvements, the board of trustees shall proceed to award the contract or contracts, reserving the right to reject any or all bids, if, in their judgment they are too high, and may again advertise for proposals, or accept such bids, as, in their judgment may be for the best interests of the institution.

§ 11. PARTIAL PAYMENTS.] The board of trustees as the work progresses, shall, on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on the said additions and improvements at the time, and on such certified statement, the Auditor shall issue a warrant on the Territorial Treasurer for a sum not exceeding seventy-five (75) per cent. of the value of the work so certified to have been done in said additions and improvements at the time of making such application, including amount of all warrants previously issued, in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said additions and improvements shall be paid, or value of the work certified by the trustees, until at least one fourth ($\frac{1}{4}$) of the work has been completed by the contractor or contractors.

§ 12 FINAL PAYMENT.] The balance due the contractor or contractors under the contract, shall be paid, on the completion of the additions and improvements, and their acceptance and approval by the board of trustees.

§ 13. IN CASE OF TERRITORIAL DIVISION.] In case of the division of the Territory, that part of the Territory of Dakota in which said Normal School is located, shall on the division of the Territory, assume and pay all bonds and coupons outstanding on account of the construction of said Normal School.

§ 14. All acts or parts of acts in conflict with this act are hereby repealed.

§ 15. This act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1887.

CHAPTER 113.

**SPEARFISH—APPROPRIATION FOR MAINTENANCE NORMAL
SCHOOL BUILDING AT SPEARFISH.**

**AN ACT Making Appropriations for the Current and Contingent Expenses of
the Normal School at Spearfish, in the Territory of Dakota.**

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION FOR CURRENT AND CONTINGENT EXPENSES.] That the following sums be, and they are hereby, appropriated out of any money in the Territorial Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Normal School at Spearfish, namely:

For salary two (2) years of principal, three thousand six hundred (3,600) dollars.

For salaries of teachers two (2) years, twelve thousand (12,000) dollars.

For pay of janitor two (2) years, one thousand (1,000) dollars.

For reference library and apparatus, eight hundred (800) dollars.

For incidental expenses of the Normal School, one thousand (1,000) dollars.

For deficiency in 1886 on salaries, the sum of three thousand (3,000) dollars.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 114.

**MADISON—AUTHORIZING ISSUE OF BONDS FOR CONSTRUCTION
AND FURNISHING OF NORMAL SCHOOL BUILD-
ING AT MADISON.**

AN ACT To Provide Funds to Pay for the Construction, Heating and Furnishing of the Normal School Building at Madison, Dakota, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FUNDS—HOW PROVIDED.] For the purpose of providing funds to pay for the construction of the Normal School building at Madison, Dakota, and purchase of furniture, steam heating apparatus and water supply for same, the Territorial Treasurer is hereby authorized and empowered and it is hereby made his duty, to prepare for issue thirty-five thousand, eight hundred (35,800) dollars of Territorial bonds, in denominations of five hundred (500) dollars each, running for a term or period of fifteen (15) years, and bearing interest not to exceed five (5) per cent. per annum, with coupons attached, interest made payable semi-annually on the first day of July and January of each year. Such bonds shall be executed under the seal of the Territory, by the Governor and Treasurer, and shall be attested by the Secretary and shall be negotiated by the Treasurer of this Territory.

§ 2. BONDS HOW SOLD.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds on or before May first 1887, having first given public notice of the sale of said bonds for thirty (30) days, in at least five (5) newspapers of general circulation, one of which shall be published in the city of New York and one in the city of Philadelphia, and said bonds shall be sold to the highest and best bidder for cash; *Provided*, That said bonds shall not be sold for less than their par value.

§ 3. PAYMENT OF INTEREST.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied, and collected in the same manner, as other Territorial taxes are collected, such sum as shall be sufficient, to pay such interest and exchange thereon; and after ten (10) years from the first (1st) day of May 1887, and in addition thereto a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer, to pay promptly on the first day of

July and January of each year such interest as shall then be due, and the said Treasurer in his discretion may purchase said bonds at their market value and retire and cancel the same with the sinking fund tax as fast as the same shall be received, and no tax or fund provided for the payment of such bonds, either principal or interest shall at any time be used for any other purpose.

§ 4. INTEREST PAID FROM OTHER FUNDS, WHEN.] If for any reason, the Territorial Treasurer shall not have in hands sufficient funds herein provided to pay the interest upon such bonds when due, he shall pay such interest out of any other unappropriated funds belonging to the Territory, and there is hereby appropriated and set apart out of the general funds belonging to the Territory, a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 5. REPLACING FUNDS.] All moneys belonging to the general Territorial fund applied by said Treasurer in payment of the interest on said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. APPROPRIATION FOR BUILDINGS, ETC., ALREADY BUILT.] There is hereby appropriated out of the Territorial Treasury of the funds realized by the sale of the bonds provided for in this act, for construction of Normal School building, as now built, twenty-six thousand nine hundred and twelve dollars and seventeen cents (\$26,912.17); for furniture for same, eighteen hundred dollars and thirty-four cents (\$1,800.34); for steam heating apparatus for same, fifty-eight hundred and fifty dollars (\$5,850); for deficiency from construction of the building which was burned, five hundred thirty-five dollars and twenty cents (\$535.20); for wind mill, tank and water supply, six hundred and fifty dollars (\$650); and for construction of well and cess pool eighty-two dollars and twenty-six cents (\$82.26.)

§ 7. CITY OF MADISON TO BE INDEMNIFIED—AUDITOR TO EXAMINE AND ALLOW CLAIMS.] The Territorial Auditor is hereby authorized and empowered to hear, determine, audit and allow such sum or sums of money out of the amount realized from the appropriation as made in section six of this act, as will be sufficient to indemnify and repay persons and the city of Madison the amount of claims held by said persons, and bonds issued by the city of Madison to erect the building now standing on the Normal School grounds in place of the one destroyed by fire, and for the other purposes designated in section six of this act, not exceeding the amount of the appropriation herein, and to pay such sum or sums to said persons, and the amount due said city of Madison, to the city treasurer of said city, upon said persons and the city of Madison executing a release to the Territory of Dakota of all claims against the Territory by reason of any expenditure or liability that said persons and said city may have incurred in the

erection of said Normal School building, and to likewise take the receipts of said persons and said city treasurer for such payment; and the said auditor is empowered to issue his warrants upon the Territorial Treasurer for such sum or sums as he may allow, and the Treasurer is hereby directed to pay the amounts mentioned in said warrants out of the funds arising from the sale of bonds provided for in this act.

§ 8. IN CASE OF DIVISION OF TERRITORY.] In case the Territory of Dakota is divided, the bonds issued under the provisions of this act shall be paid by that portion of the Territory within which said Normal School is situated.

§ 9. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 115.

MADISON—APPROPRIATION FOR MAINTENANCE OF NORMAL SCHOOL AT MADISON.

AN ACT Appropriating Funds for the Maintenance of the Normal School at Madison, Dakota, for the Ensuing Two Years and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. SPECIFIC APPROPRIATION.] There is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated, the following sums of money, or so much thereof as may be necessary, for the purpose of paying the current and contingent expenses of the Normal School at Madison, Dakota, for the ensuing two years:

For salary of president of faculty.....	\$ 3,500
For salary of professors, teachers and assistants.....	12,500
For fuel and lights.....	3,500
For engineers, fireman and janitors.....	2,500
For incidental expenses.....	500
For library.....	500
For deficiency in 1886 on salaries of teachers and profes- sors.....	1,500
For secretary's salary.....	500

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

NOTARIES PUBLIC.

CHAPTER 116.

AN ACT Entitled "An Act Relating to the Office of Notaries Public."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PENALTY FOR EXERCISING DUTIES AFTER EXPIRATION OF COMMISSION.] Any notary public exercising the duties of his office after the expiration of his commission or when otherwise disqualified, or appending his official signature to documents when the parties have not appeared before him, shall be guilty of a misdemeanor, and be subject to a fine of one hundred dollars for each offence, to be recovered before any court having competent jurisdiction, and shall also be removed from office by the Governor.

§ 2. SECRETARY TO ISSUE COMMISSION—DUPLICATE TO BE CONSPICUOUSLY POSTED—FEE.] The Secretary shall issue a commission to each notary public appointed by the Governor, and duplicate one of which shall, by said notary public be posted in a conspicuous place in his office for public inspection; and the Secretary shall be entitled to receive and charge a fee therefor of five dollars, three-fifths of which shall be paid to the Territorial Auditor for the use of the Executive in the employment of such clerical assistance as he may deem necessary. The Secretary shall keep in his office a careful record of such appointments and the date of their expiration, and shall notify each notary, by mailing to each notary, postage prepaid, at his last known postoffice address at least thirty days before the expiration of his term, a notice of the date upon which his commission expires.

§ 3. All acts or parts of acts in conflict with this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1887.

PENITENTIARY.

CHAPTER 117.

BISMARCK—AUTHORIZING ISSUE OF BONDS FOR PERMANENT IMPROVEMENTS AT BISMARCK PENITENTIARY.

AN ACT To Provide Funds for Making Permanent and Necessary Improvements at the Dakota Penitentiary, at Bismarck.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BONDS TO BE ISSUED. That for the purpose of providing funds to pay the costs of making necessary improvements at the Dakota Penitentiary at Bismarck, and for other purposes, to-wit: cell wing \$25,000; furniture and fixtures for cell wing, \$2,500; extension [of] yard wall, \$1,500; the Territorial Treasurer is hereby authorized and empowered and it is made his duty, to prepare for issue \$29,000 of Territorial bonds, running for a period of thirty years, and payable at the option of the Territory at any time after ten years from the date of the same, and bearing interest at the rate of not to exceed five per cent. per annum, with coupons attached, made payable semi-annually on the first day of July and January of each year, in denominations of not less than five hundred each; such bonds shall be executed for the Territory, and under the seal thereof, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 2. PROPOSALS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, by giving notice for thirty days in two newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and the bonds shall be sold to the highest bidder for cash; *Provided*, however, that no bond shall be disposed of for less than par.

§ 3. BOND TAX—SINKING FUND.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization at the time the other taxes are levied and collected, in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and exchange thereon, and after ten years from the first day of May, 1887, in addition thereto,

a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer to pay promptly on the first day of July and January in each year, such interest as shall then be due and to purchase said bonds at not more than their par value, and retire and cancel the same with sinking fund tax as fast as the same shall be received; and no tax or fund provided for the payment of such bonds, whether principal or interest, shall at any time be used for any other purpose.

§ 4. PAYMENT OF INTEREST AND PRINCIPAL.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided, to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated funds belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory, a sum sufficient to pay said interest on such bonds as may become due before the funds and tax herein provided can be made available. And it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due out of said funds. All moneys belonging to the general Territorial fund applied by said Treasurer in payment of either principal or interest of said bonds shall be replaced from the special tax levied to pay the same.

§ 5. AUDITOR TO DRAW WARRANTS.] It shall be the duty of the Territorial Auditor to issue his warrant upon the Territorial Treasurer for such sums as may be required in the progress of the work or improvements of the penitentiary, upon vouchers issued by the order of the board of directors, attested by the secretary or warden and approved by the Governor of the Territory.

§ 6. IN CASE OF DIVISION OF TERRITORY.] In case of the division of the Territory of Dakota, that part of said Territory in which said penitentiary is situated, shall assume and pay said bonds and coupons which are issued by virtue of this act.

§ 7. This act shall be in force and effect from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 118.

BISMARCK—APPROPRIATION FOR MAINTENANCE BISMARCK PENITENTIARY.

AN ACT Making Appropriation for the Current and Contingent Expenses of the Territorial Penitentiary at Bismarck.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CURRENT AND CONTINGENT EXPENSES.] That the following sums be and they are hereby appropriated, out of any money in the Territorial Treasury not otherwise appropriated, or so much thereof, as may be necessary; for the purpose of paying the current and contingent expenses for two years, of the Territorial Penitentiary of Dakota at Bismarck, namely:

Warden, salary two years.....	\$ 4,000
Deputy Warden's salary, two years.....	2,400
Book-keeper and assistant gate keeper, two years,.....	2,000
Eighteen employees.....	20,000
Subsistence, 130 persons.....	25,000
Physician and medicine, two years.....	2,000
Fuel and lights, two years.....	6,000
Clothing and bedding, two years.....	4,480
Incidentals and repairs, two years.....	4,500
Transportation, clothing etc., discharged prisoners, two years.....	2,880

It is made the duty of the warden, and he is hereby required to make out and present to the directors of the penitentiary, a detailed estimate of the amount of money necessary to meet the current expenses of the penitentiary for the next ensuing month, and upon presentation of the said estimate to the Territorial Auditor, after being duly approved and certified by the president of the board of directors of said penitentiary, the said Territorial Auditor shall draw a warrant upon the Territorial Treasurer, for the amount of said estimate or estimates so certified and approved, in favor of the said warden of the said penitentiary.

§ 2. BOARD TO DIRECT EXPENDITURES.] All moneys shall be expended, and all purchases shall be made, by, or under the direction of the board of directors and the salary of all employes shall be fixed by them except as otherwise provided in this act; *Provided, however,* That the salaries of said employes shall not exceed the amount herein appropriated.

§ 3. This act shall take effect and be in force from and after its passage.

Approved, March 11, 1887.

CHAPTER 119.

SIOUX FALLS—AUTHORIZING ISSUE OF BONDS FOR PERMANENT
IMPROVEMENTS SIOUX FALLS PENITENTIARY.

AN ACT To Provide Funds for Permanent and Necessary Improvements
at the Dakota Penitentiary at Sioux Falls.

Be it Enacted by the Legislative Assembly of the Territory of Dakota.

§ 1. APPROPRIATION—BONDS, HOW ISSUED.] That for the purpose of providing funds to pay the cost of making necessary improvements at the Dakota Penitentiary at Sioux Falls, and for other purposes, to-wit: For an electric light plant, \$2,500; for water pipes four inches in diameter, \$6,500; with fixtures and laying pipes, \$1,000; for necessary improvements, repairs and steam heating and plumbing, \$4,300, the Territorial Treasurer is hereby authorized and empowered and it is made his duty to prepare for issue, fourteen thousand, three hundred dollars of Territorial bonds running for a period of twenty years, payable at the option of the Territory, at any time after ten years from the date of the same, and bearing interest at the rate of not to exceed five (5) per cent. per annum, with coupons attached, made payable semi-annually on the first day of July and January of each year. Such bonds shall be executed for the Territory and under the seal thereof, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 2. BONDS—TREASURER TO SELL.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, by giving notice for thirty days in two newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York; and the bonds shall be sold to the highest and best bidder for cash; *Provided, however,* That no bonds shall be sold for less than par.

§ 3. BOND TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization at the time the other taxes are levied and collected, in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and exchange thereon; and after ten years from the first day of May, 1887, in addition thereto, a sinking fund tax shall be annually levied sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer to pay promptly on the first day of July and January in each year,

such interest as shall then be due, and to purchase said bonds at not more than their par value; and retire and cancel the same with sinking fund tax as fast as the same shall be received, and no tax or fund provided for the payment of such bonds, whether principal or interest, shall at any time be used for any other purpose.

§ 4. PAYMENT OF INTEREST.] If for any reason, the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided, to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated funds belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory, a sum sufficient to pay said interest on such bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly, at the time it falls due, out of said funds. All moneys belonging to the general Territorial fund applied by said Treasurer in payment of either principal or interest of said bonds shall be replaced from the special tax levied to pay the same.

§ 5. AUDITOR TO ISSUE WARRANTS.] It shall be the duty of the Territorial Auditor to issue his warrant upon the Territorial Treasurer for such sums as may be required in the progress of the work or improvements of the penitentiary, upon vouchers issued by the order of the board of directors, attested by the secretary or warden, and approved by the Governor of the Territory.

§ 6. IN CASE OF TERRITORIAL DIVISION.] In case of the division of the Territory of Dakota, that part of said Territory in which said penitentiary is situated, shall assume and pay said bonds and coupons which are issued by virtue of this act.

§ 7. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 120.

SIOUX FALLS—APPROPRIATION FOR MAINTENANCE SIOUX FALLS PENITENTIARY.

AN ACT Making Appropriation for the Maintenance of the Territorial Penitentiary at Sioux Falls, Dakota, for the Ensuing Two (2) Years.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary out of any money in the Territorial Treasury not otherwise ap-

propriated for the purpose of paying the current and contingent expenses of the Territorial Penitentiary at Sioux Falls, Dakota for the ensuing two (2) years:

For warden's salary	\$ 4,000
For deputy warden's salary.....	2,400
For clerk and assistant gate keeper.....	1,800
For officers and guards.....	20,000
For maintenance of prisoners.....	20,000
For incidental expenses.....	3,000
For physicians and medicines.....	1,500
For discharged convicts.....	3,500
For lights, fuel, directors, and clothing.....	14,500

Total..... 70,700

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

PHARMACY.

CHAPTER 121.

PROVIDING FOR A PHARMACEUTICAL ASSOCIATION.

AN ACT To Regulate the Practice of Pharmacy, the Licensing of Persons to Carry on Such Practice, and the Sale of Poisons in the Territory of Dakota.

1. Forbids compounding or sale of drugs, medicines or poisons, except by registered pharmacists.
2. Who shall register.
3. Who shall be licentiates in pharmacy.
4. Board of pharmacy; Governor to appoint; Dakota Pharmaceutical Association to nominate candidates for appointment as members.
5. Organization of board; duties of members and officers; examination meetings; quorum.
6. Requirement of persons claiming registry.
7. This act does not prevent an employe of sufficient experience from becoming a "Registered Pharmacist."

8. Certificate for pharmacists, and fee for same.
10. Annual fees; certificates open for public inspection.
11. Duties of secretary of board and salary; to be treasurer of board; bond; disposition of funds.
12. Requires compliance with the provisions of this act within ninety days; penalty for failure to comply; exceptions.
13. Forbids adulteration of drugs; penalty for same; board to prosecute violations of this act.
14. All poisons to be labeled.
15. Prosecution of suits; duty of county attorneys; disposition of penalties collected.
16. All other acts repealed; forfeited membership.
17. Exempt from jury duty.
18. In force.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHO SHALL COMPOUND.] That it shall hereafter be unlawful for any person, other than a registered pharmacist, to retail, compound or dispense drugs, medicines or poisons, or to institute or conduct any pharmacy, store or shop for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist, or shall employ and place in charge of said pharmacy, store or shop, a registered pharmacist, within the full meaning of this act, except as hereinafter provided.

§ 2. WHO SHALL REGISTER.] In order to be registered within the full meaning of this act, all persons must either be graduates in pharmacy, or shall at the time this act takes effect be engaged in the business of a dispensing pharmacist on their own account, in the Territory of Dakota, or who shall have been engaged in the dispensing of drugs and medicines for a period of not less than ten years in the preparation of physicians' prescriptions, and in the vending and compounding of drugs, medicines and poisons, or shall be licentiates in pharmacy.

§ 3. WHO SHALL BE LICENTIATES IN PHARMACY.] Licentiates in pharmacy shall be such persons as have had two consecutive years practical experience in drug stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before one or either of the Territorial Boards of Pharmacy hereinafter mentioned. Such boards of pharmacy may grant certificates of registration to graduates in pharmacy who have obtained a diploma from such colleges or schools of pharmacy as shall be approved by said board or to licentiates of such other state or territorial boards as it may deem proper, without further examination.

§ 4. BOARDS OF PHARMACY—GOVERNOR TO APPOINT—BOARDS TO NOMINATE CANDIDATE FOR APPOINTMENT.] Immediately upon the passage of this act the Dakota Pharmaceutical Association, and Southern District Pharmaceutical Association, shall select each five reputable and practicing pharmacists doing business in

their respective districts, from which number the governor of the Territory shall appoint three of each five. The said three pharmacists, duly elected and appointed, shall constitute the board of pharmacy of the districts of North and South Dakota respectively and shall hold office as respectively designated in the appointments, for the term of one, two and three years, as hereinafter provided, and until their successors have been appointed and qualified. The Dakota Pharmaceutical Association, and Southern District Pharmaceutical Association, shall each annually thereafter select three pharmacists who shall be members in good standing, from which number the Governor of the Territory shall appoint one to fill the vacancy annually occurring in said boards. The term of office shall be for three years. In case of resignation or removal from the district of any member of said boards, or of a vacancy occurring from any cause, the Governor shall fill the vacancy by appointing a pharmacist from the names last submitted, to serve as a member of the board for the remainder of the term; *Provided*, All that part of Dakota lying south of the seventh standard parallel shall be held to constitute one Pharmaceutical District, and all that part lying north of the same line shall constitute one Pharmaceutical District.

§ 5. ORGANIZATION OF BOARD—DUTIES—EXAMINATION MEETINGS—QUORUM.] The said boards shall, within thirty (30) days after their appointment, meet and organize by the selection of a president and secretary from the number of its own members, who shall be elected for a term of one year, and shall perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration, within their respective districts, submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to cause the prosecution of all persons violating its provisions; to report annually to the Governor and to their respective pharmaceutical association, upon the condition of pharmacy in the Territory, which said report shall also furnish a record of the proceedings of the said board for the year, as well as the names of all pharmacists duly registered under this act. The board shall hold meetings for the examination of applicants for registration and transaction of such other business as shall pertain to its duties, at least twice, or not more than four times a year, at discretion of board, and the said board shall give thirty (30) days' public notice of the time and place of such meeting. The said board shall also have power to make by-laws for the proper execution of its duties under this act, and shall keep a book of registration, in which shall be entered the names and places of business of all persons registered under this act, which registration book shall also contain such facts as such persons claim to justify their registration. Two members of said board shall constitute a quorum.

§ 6. REQUIREMENT OF PERSONS CLAIMING REGISTRY.] Every per-

son claiming the right of registration under this act, who shall, within three months after the passage of this act and organization of this board, forward to the board of pharmacy satisfactory proof, supported by his affidavit, that he was engaged in the business of dispensing pharmacist on his own account in the Territory of Dakota at the time of the passage of this act as provided in section two, shall, upon the payment of the fee hereinafter mentioned, be granted a certificate of registration; *Provided*, That in case of failure or neglect to register as herein specified, then such person shall, in order to be registered, comply with the requirements provided for registration as licentiates in pharmacy within the meaning of this act.

§ 7. PERSONS NOT AFFECTED BY THIS ACT.] That the foregoing provisions of this act shall not apply to, or affect any person having five (5) consecutive years experience in the dispensing of and compounding of the prescriptions of regular practitioners, and employed as a pharmacist in Dakota at the passage of this act, except only in so far as relates to registration and fees hereinafter provided for.

§ 8. CERTIFICATES—FEES FOR SAME.] Every person claiming registration as a registered pharmacist under section six of this act shall, before a certificate is granted, pay to the secretary of the Territorial Board of Pharmacy the sum of two dollars, and a like sum shall be paid to said secretary by such licentiates of other boards who shall apply for registration under this act; and every applicant for registration by examination shall pay to the said secretary the sum of five dollars before such examination be attempted; *Provided*, That in case of failure to pass a satisfactory examination, he may be re-examined at any regular meeting of the board by paying a fee of three dollars.

§ 9. REGISTERED ASSISTANTS.] Any assistant or clerk in pharmacy, who shall not have the qualifications of a registered pharmacist within the meaning of this act, not less than eighteen years of age who, at the time this act takes effect, shall have been employed or engaged two years or more in drug stores, where the prescriptions of medical practitioners are compounded, and shall furnish satisfactory evidence to that effect to the Territorial Board of Pharmacy shall, upon making application for registration and upon payment to the secretary of the said boards of a fee of one dollar within (60) days after this act takes effect, be entitled to a certificate as a "registered assistant," which said certificate shall entitle him to continue in such duties as clerk or assistant; but such certificate shall not entitle him to engage in business on his own account unless he shall have had at least four years experience in pharmacy at the time of the passage of this act. Annually thereafter, during the time he shall continue in such duties, he shall pay to said secretary, a sum not exceeding fifty cents, for which he shall receive a renewal of this certificate.

§ 10. ANNUAL FEES—CERTIFICATES OPEN FOR INSPECTION.] Every registered pharmacist, who desires to continue the practice of his profession, shall annually, during the time he shall continue such practice, on such date as the board of pharmacy may determine, pay to the secretary of said board a registration fee, the amount of which shall be fixed by the board, and which in no case shall exceed two dollars, in return for which payment he shall receive a renewal of said registration. Every certificate of registration and every renewal of such certificate shall be conspicuously exposed in the pharmacy to which it applies.

§ 11. DUTIES OF SECRETARY—TO BE TREASURER OF BOARD—DISPOSITION OF FUNDS.] The secretary of each board of pharmacy shall receive a salary which shall be determined by said board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of five dollars for each day actually engaged in such service, and all the legitimate and necessary expenses incurred in attending the meetings of said boards. Said expenses shall be paid from the fees and penalties received by said board under the provisions of this act, and no part of the salary or other expenses of said board shall be paid out of the public treasury. All moneys received by said board, in excess of said allowances and other expenses hereinbefore provided for, shall be held by the secretary of said board as a special fund for meeting the expenses of said board; said secretary giving such bonds as the said board shall from time to time direct and approve. The said board shall, in its annual report to the Governor and to the Dakota Pharmaceutical Association, render an account of all moneys received and disbursed by them pursuant to this act.

§ 12. REQUIRES COMPLIANCE WITH THE PROVISIONS OF THIS ACT WITHIN NINETY DAYS—PENALTY FOR FAILURE TO COMPLY—EXCEPTIONS.] Any person not being or not having in his employ a registered pharmacist, within the full meaning of this act, who shall after the expiration of ninety (90) days from the passage of this act, and organization of said board, retail, compound, or dispense medicines, or who shall take, use or exhibit the title of a registered pharmacist, shall for each and every such offense be liable to a penalty not to exceed fifty dollars. Any registered pharmacist or other person who shall permit the compounding and dispensing of prescriptions, or the vending of drugs, medicines or poisons in his store or place of business, except under the supervision of a registered pharmacist, or any pharmacist, who, while continuing in business, shall fail or neglect to procure his annual registration, or any person who shall wilfully make any false representation to procure registration for himself or any other person, or who shall violate any other provision of this act, shall for each and every such offense be liable to a penalty not to exceed fifty dol-

lars; *Provided*, That nothing in this act shall in any manner interfere with the business of any physician in regular practice, or prevent him from supplying his patients such articles as may seem to him proper, nor with the making of proprietary medicine, or medicines placed in sealed packages with the name of the contents and of the pharmacist or physician by whom prepared or compounded, nor prevent shopkeepers from dealing in and selling the commonly used medicines and poisons if such medicines and poisons are put up by a registered pharmacist, or from dealing in and selling of patent or proprietary medicines, nor with the exclusive wholesale business of any dealers except as hereinbefore provided.

§ 13. ADULTERATION—PENALTY.] Every proprietor or conductor of a drug store shall be held responsible for the quality of all drugs, chemicals and medicines sold or dispensed by him, except those sold in the original package of the manufacturer, and except those articles or preparations known as patent or proprietary medicines. Any person who shall knowingly, wilfully or fraudulently falsify or adulterate, or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by any standard work on pharmacy, or use or intended to be used in medical practice; or shall mix or cause to be mixed with any such drug or medicinal substance, any foreign or inert substance whatsoever for the purpose of destroying or weakening its medicinal power and effect, or of lessening its cost, and shall wilfully, knowingly or fraudulently sell, or cause the same to be sold for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a penalty not exceeding five hundred dollars, and shall forfeit to the Territory of Dakota all articles so adulterated.

§ 14. POISONS TO BE LABELED—REGISTER TO BE KEPT.] A poison in the meaning of this act shall be any drug, chemical or preparation which, according to standard works on medicine, or *materia medica*, is liable to be destructive to adult human life in quantities of sixty (60) grains or less. No person shall sell at retail any poisons, except as herein provided, without affixing to the bottle, box, vessel or package, containing the name of the article, the word "Poison," and the name and place of business of the seller, nor shall he deliver poison to any person without satisfying himself that such poison is to be used for legitimate purposes; *Provided*, That nothing herein contained shall apply to the dispensing of physicians' prescriptions specifying poisons. It shall also be the duty of such vendor of poisons before delivering the same to the purchaser to cause an entry to be made in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quantity of the poison sold and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for reference for at least five (5) years. Any person failing to com-

ply with the requirements of this section shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not less than five (5) dollars for each and every such omission.

§ 15. PROSECUTION OF SUITS—DUTY OF COUNTY ATTORNEYS—DISPOSITION OF PENALTIES COLLECTED.] All suits for the recovery of the several penalties and costs prescribed in this act, shall be prosecuted in the name of the Territory of Dakota, in any court having jurisdiction, and it shall be the duty of the district attorney of the county wherein such offense is committed, to prosecute all persons violating the provision of this act, upon proper complaint being made. All penalties collected under the provisions of this act shall inure to the board of pharmacy, for the expenses and costs of the proper execution of the law.

§ 16. PRIOR ACTS REPEALED—FORFEITED MEMBERSHIP.] All acts or parts of acts regulating the practice of pharmacy, or the adulteration of drugs within this Territory, enacted prior to the passage of this act, and which in any way conflict with the provisions of this act are hereby repealed; *Provided*, That nothing in this act shall be so construed as to prevent any person who has once been a registered member by examination and may have forfeited his membership by non-payment of fines or fees, from renewing his membership within two years, by paying the required dues or fees, without examination.

§ 17. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

POSTAL RIGHTS.

CHAPTER 122.

AFFECTING INMATES OF INSANE ASYLUMS.

AN ACT To Place the Inmates of Insane Asylums Under the Protection of the Laws, by Securing to Them Their Postal Rights.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. POSTAL RIGHTS—HOW SECURED.] That henceforth each and every inmate of each and every insane asylum, both public and private, in the Territory of Dakota, shall be allowed to choose one individual from the outside world, to whom he may write

when or whatever he desires, and over these letters to this individual there shall be no censorship exercised or allowed by any of the asylum officials or employes; but their postoffice rights, so far as this one individual is concerned, shall be as free and unrestricted as are those of any other resident or citizen of the Territory of Dakota and shall be under the protection of the same postal laws; and each and every inmate shall have the right to make a new choice of this individual party every three months, if he so desires to do; and it is here made the duty of the superintendent to furnish each and every inmate of every insane asylum in this Territory either public or private, with suitable material for writing, inclosing, sealing, stamping and mailing letters, sufficient at least, for the writing of one letter a week; *Providing*, They request the same, unless they are otherwise furnished with such materials, and all such letters shall be dropped by the writers thereof, accompanied by an attendant when necessary, into a postoffice box provided by the Territory at the insane asylum, and kept in some place of easy access to all patients. The attendant is required in all cases to see that this letter is directed to the patient's correspondent and if it is not so directed, it must be held to the superintendent's disposal, and the contents of these boxes shall be collected once every week by an authorized person from the post-office department and by him placed in the hands of the United States mail for delivery.

§ 2. DUTY OF SUPERINTENDENT.] That it is hereby made the duty of the superintendent to keep registered and posted in some public place at the insane asylum a true copy of the names of every individual chosen as the inmate's correspondent, and by whom chosen; and it is hereby made the duty of the superintendent to inform each of the individuals of the name of the party choosing him, and he is to request him to write his own name on the outside of the envelope of every letter he writes to this individual inmate; and all these letters bearing the individual writer's [name] on the outside, he is requested to deliver, or cause to be delivered, any letter or writing to him directed, without opening or reading the same, or allowing it to be opened or read, unless there is reason for believing the letter contains some foreign substance which might be used for medication, in which case the letter shall be required to be opened in the presence of a competent witness, and this substance shall be delivered to the superintendent, to be used at his discretion.

§ 3. PENALTY FOR VIOLATION OF THIS ACT.] That any person refusing or neglecting to comply with, or willingly or knowingly violating any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as the criminal code [of] the Territory of Dakota prescribes, and by ineligibility to any office in the asylum afterwards.

§ 4. ACT TO BE PRINTED AND POSTED.] That a printed copy

of this act shall be framed and kept posted in every ward of every insane asylum, both public and private, in the Territory of Dakota.

§ 5. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 6. This act shall be in force thirty days from its passage.

Approved, February 15, 1887.

PRAIRIE FIRES.

CHAPTER 123.

SPECIAL LAW MADE GENERAL.

AN ACT To Amend Section 1, Chapter 106, of the General Laws of 1881.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LAW MADE GENERAL.] That section one, chapter 106, of the General Laws of 1881 be and the same is hereby amended by striking out the words "counties of Lawrence, Pennington, Custer, Mandan and Forsythe, or either of them," and insert instead thereof the words "Territory of Dakota."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

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PUBLIC EXAMINERS.

CHAPTER 124.

TERRITORY DIVIDED INTO TWO EXAMINER'S DISTRICTS.

AN ACT To Create the Office of Public Examiner, Defining the Duties and Dividing the Territory Into Two Examiner's Districts.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CREATING OFFICE—QUALIFICATIONS—BOND—VACANCY, HOW FILLED.] That two (2) competent persons, one of whom shall be a republican, who shall be skilled accountants and well versed as experts in the theory and practice of book-keeping and who are not incumbents of any public office under the Territory of Dakota or any county, municipality or public institution therein, and who shall not own, hold or control any stocks, capital or bonds, or the office of transfer, assignee, officer or employe of any banking annuity, safe deposit, trust company, moneyed or savings institution or corporation created under the laws thereof, shall be appointed by the Governor, by and with the advice and consent of the Council who shall be styled Public Examiners, and each of whom, shall make and file with the Secretary, a bond with at least three (3) sureties, to be approved by the Governor in the penal sum of twenty-five thousand (25,000) dollars, for the faithful discharge of his duties. Said Examiners shall hold office for two (2) years from the first day of March, 1887, and until their successors shall have been appointed and qualified and their successors shall hold office for two (2) years and until their successors shall have been appointed and qualified, and execute the duties, as herein prescribed, and in case of a vacancy by death, removal, resignation or otherwise, the Governor shall fill the same by appointment.

§ 2. DIVIDING TERRITORY INTO EXAMINER'S DISTRICTS—GOVERNOR MAY CHANGE EXAMINERS FROM ONE DISTRICT TO THE OTHER.] That the Territory is hereby divided into two (2) districts. All of that portion of the Territory situated south of the south lines of the counties of Richland, Sargent, Dickey, McIntosh, Emmons, Morton, Hettinger and Bowman, in the said Territory, shall constitute the first district; and all of said Territory north of the said south lines of the said counties shall constitute and be known as the Second Examiner's District, and in making the appointment

of Public Examiners the Governor shall assign the district, and have power, in case the public service may best be served, to change said Examiners from one district to the other.

§ 2. DUTIES OF EXAMINERS AND DEPUTIES.] That it shall be the duty of said Public Examiners authorized and empowered by this act, in their discretion to assume and exercise a constant supervision over the books and financial accounts of the several public, educational, charitable, penal and reformatory institutions, belonging to the Territory, and within said Examiner's district. Each Examiner shall prescribe and enforce correct methods of keeping the financial accounts of said institutions, by himself or duly appointed deputy, and instruct the proper officer thereof in the due performance of their duties concerning the same. It shall be the Examiner's duty to visit each of the said Territorial institutions within his district, by himself or duly appointed deputy, at irregular periods, without previous notice to the officers thereof, at least twice each year, and make an exhaustive examination of the books and accounts thereof, including a thorough inspection of the purpose and detailed items of expenditure, and the vouchers therefor.

§ 4. REQUIRE UNIFORM SYSTEM OF BOOK-KEEPING—ASCERTAIN CHARACTER AND FINANCIAL STANDING OF BONDSEN.] It shall be the duty of the said Examiners to order and enforce a correct and as far as practicable, uniform system of book-keeping, by Territorial and county treasurers and auditors, so as to afford a suitable check upon their mutual action, and insure the thorough supervision and safety of the Territorial and county funds. They shall have full authority to expose false and erroneous systems of accounting, and when necessary, instruct, or cause to be instructed, Territorial and county officers in the proper mode of keeping the same. It shall be their duty to ascertain the character and financial standing of all present and proposed bondsmen of Territorial and county officers, within their districts. Each Examiner shall require of county treasurers within his district, from time to time, as often as he shall deem necessary, a verified statement of their accounts, and he shall personally or by duly appointed deputy, visit said office, without previous notice to such treasurers, at irregular periods of at least once a year, or when requested by any board of county commissioners, and make a thorough examination of the books, accounts and vouchers of such officers, ascertaining in detail the various items of receipts and expenditures; and it shall be his duty to inspect and verify the character and amount of any and all assets and securities held by said officers in public account, and to ascertain the character and amount of any commissions, percentages, or charges for services exacted by such officers without warrant of law. Each Examiner shall report to the Attorney General the refusal or neglect of county officers to obey his instructions, and it shall be the duty of the said Attorney General to promptly take action to enforce

compliance therewith. The said Examiner shall report to the Governor the result of his examination, which shall be filed in the executive office, as well as any failure of duty by financial officers, as often as he thinks required by public interests, and the Governor may cause the results of such examinations to be published, or at his discretion, to take such action for the public security as the exigency may demand; and if he should deem the public interests to require, he may suspend any such officer from further performance of duty until an examination be had or such security obtained as may be demanded for the prompt protection of the public funds.

§ 5. To VISIT PUBLIC INSTITUTIONS WITHOUT NOTICE—REPORTS, HOW MADE.] The Examiners under this act shall in like manner and with authority visit within their individual districts without prior notice, each of the banking, insurance, saving, annuity, safe deposit, loan or trust companies and other moneyed corporations, created under the laws of this Territory, and thoroughly examine into their affairs and ascertain their financial condition at least once in each year. It shall be the duty of such Examiner to carefully inspect and verify the validity and amount of the securities and assets held by such institutions, examine into the validity of mortgages, held by savings banks and see that the same are duly recorded, and ascertain the nature and amount of any discount or other banking transactions, which he may deem foreign to the legitimate and lawful purposes of savings institutions. He shall inquire into and report any neglect or infringement of the laws governing such banking, annuity, safe-deposit, trust companies, moneyed and savings institutions, and for such purpose shall have power to examine the officers, agents and employes thereof, and all persons doing business therewith. He shall forthwith report the condition of such corporations so ascertained, to the Governor, together with his recommendations or suggestions, respecting the same, and the Governor may cause the same to be published, or in his discretion take such action as the exigencies of the cause may seem to demand.

§ 6. DUTY OF PUBLIC OFFICERS TO ASSIST PUBLIC EXAMINER.] To enable said Examiner to perform the services herein required of him, the trustees and financial officers and managers of the several Territorial institutions, the county and Territorial treasurers, and auditors, and other county and Territorial officers, and officers and employes of all banking, insurance, annuity, safe-deposit, trust companies, moneyed and savings institutions herein referred to, shall afford all reasonable and needed facilities, and it is hereby made the duty of all such trustees, officers, managers, and employes to make returns and exhibits to the said Examiner, under oath, in such form and at such time or times as he shall prescribe; and each and every person so required who shall refuse or neglect to make such return or exhibit, or to make or give such information as may be required by said Examiner, shall be

deemed guilty of felony; and if any person in making such exhibit, or giving such information, or affording any statement required under this act, on his oath, shall knowingly swear falsely concerning the same, he shall be deemed guilty of perjury and punished accordingly.

§ 7. PENALTY FOR OBSTRUCTING OR MISLEADING EXAMINER.] Every person or persons who shall wilfully obstruct or mislead the Public Examiner in the execution of his duties, as herein prescribed, shall be subject to a conviction and punished therefor, in the same manner as is provided for the conviction and punishment of persons obstructing or hindering any other officers, ministerial, judicial or executive under the authority and laws of this Territory. And said Examiner shall have full power and authority for the various purposes named, to examine any of the books, papers, accounts, bills, vouchers and other documents or property of any or all of the aforesaid Territorial institutions, moneyed, banking, insurance, annuity, safe deposit, trust companies and moneyed insurance corporations, and county or Territorial officers and custodians of county and Territorial funds, and also to examine, under oath, any or all of the trustees, managers, officers, employes and agents of such institutions and moneyed and savings corporations, and other persons in the control of, or doing business with said moneyed and savings institutions, and the county and Territorial officers and custodians of county and Territorial funds aforesaid. The said Examiner is empowered to issue subpœnas, and administer oaths in the same manner, and with the same power to enforce obedience thereof, in the performance of his said duties, as belong and pertain to courts of law in this Territory, and any person refusing access by said Examiner to any such books or papers, or any trustee, manager, officer, agent, clerk, employe, or other person aforesaid, who shall obstruct said access or refuse to furnish any required information, or who shall in any manner hinder the thorough examination required by this act, of the officers, Territorial, moneyed, banking, insurance, annuity, safe deposit, trust companies and savings institutions, or pertaining to the county and Territorial officers aforesaid, shall be deemed guilty of felony, and shall be liable on conviction, to a fine of one thousand (1,000) dollars or imprisonment in the Territorial prison for a term of one year. And when necessary to employ stenographers or clerical help, the expense incurred therefor, shall be collected by the Examiner, from the county or corporation in interest.

§ 8. TO MAKE ANNUAL REPORT.] The said Examiners shall each make an annual written report to the Governor of his various proceedings, embodying therein an abstract of the condition and statistics of the several institutions, and county and Territorial finances ascertained by him, which report shall be printed to the number of one thousand (1,000) copies, and shall be included with other official reports in the volume of executive documents.

§ 9. SALARY—PENALTY FOR RECEIVING PAY IN VIOLATION OF THIS ACT.] For the services required under this act each Public Examiner shall receive an annual salary of two thousand (2,000) dollars, and a contingent fund of seven hundred and fifty (750) dollars for the incidental expenses of his office, which sums shall be paid by the Territorial Treasurer in the same manner as the other salaries and expenses of Territorial officers are paid, and if the said Examiner shall directly or indirectly receive any compensation or pay for any services, or extra service, or neglect of service, other than is provided in this act, he shall be deemed guilty of felony, and on conviction thereof shall be subject to a fine of not exceeding ten thousand (10,000) dollars, or imprisonment in the Territorial prison not exceeding ten years, or both, in the discretion of the court.

§ 10. DUTIES OF ATTORNEY GENERAL.] That it shall be the duty of the Attorney General, to aid when called upon by either of the Public Examiners, to aid in any investigation or matter needing legal advice or inquiry, and to supervise the prosecution of all offenders, under the provisions of this act.

§ 11. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 12. This act shall take effect and be in force from and after its passage.

Approved, March 9, 1887.

CHAPTER 125.

AMENDMENT TO CHAPTER 124 OF SESSION LAWS OF 1887.

AN ACT To Amend Section One, of an Act Entitled "An Act to Create the Office of Public Examiner, Defining the Duties and Dividing the Territory into Two Examiner's Districts," of the Session Laws of 1887, Approved March 9th, 1887.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AMENDING SECTION ONE OF CHAPTER 124 OF SESSION LAWS 1887.] That section one of an act entitled "An act to create the office of Public Examiner, defining the duties and dividing the Territory into two Examiner's districts," of the Session Laws of 1887, approved March 9th, 1887, be amended by adding at the end thereof the following: "The Governor is authorized to remove from office any Public Examiner who violates or fails to faithfully discharge the duties of his office, and to appoint his successor,

who shall hold office until the end of the next Legislative Assembly, unless sooner removed, as above provided."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

PUBLIC PRINTING.

CHAPTER 126.

BIENNIAL REPORTS.

JOINT RESOLUTION Making an Appropriation to Pay for the Printing of the Biennial Reports of the Territorial Officers and Institutions for the Fiscal Years of 1885 and 1886.

Be it Resolved by the Council, and House of Representatives:

THAT all accounts for the printing of the biennial reports of the Territorial officers and institutions, authorized by law for the fiscal years of 1885 and 1886, and ordered printed by the Governor, Auditor, Treasurer, or other Territorial officer, and for which payment has not been otherwise provided for, shall before the same are paid out of the general Treasury be properly verified and certified to by the respective Territorial officers. Upon presentation to the Territorial Auditor of a properly verified account or accounts for such printing, certified to as herein provided, it shall be his duty to draw his warrant upon the Territorial Treasurer for an amount or amounts sufficient to pay for the same; *Provided*, That it shall be the duty of the Territorial Auditor before drawing his warrant for the payment of such bills, to carefully examine the work performed, and shall in no case allow a greater amount for such printing than the regular commercial rates usually paid for this class of work. There is hereby appropriated out of the Territorial Treasury a sufficient sum to pay for the printing of reports as provided in this resolution.

Approved, March 11, 1887.

CHAPTER 127.

BILLS, JOINT RESOLUTIONS AND MEMORIALS.

JOINT RESOLUTION, Providing for the Printing of Bills and Other Documents Ordered Printed by the Seventeenth Legislative Assembly, and Making Appropriations for the Same.

Be it Resolved by the Council and House of Representatives of the Territory of Dakota:

THAT the Secretary of the Territory be and he is hereby authorized to procure at a rate not exceeding that established by the government and paid by him for similar work, the printing of all bills, joint resolutions, memorials and all other documents ordered printed by the Council and House of Representatives at this session, and for which payment has not been otherwise provided for. Upon presentation to the Territorial Auditor of a properly verified account for printing done under provisions of this resolution, certified to by the Secretary of the Territory, the Auditor shall draw his warrant upon the Territorial Treasurer for the amount of said bill or bills and there is hereby appropriated from the Territorial Treasury such sum as may be necessary to pay said printing.

Approved, January 29, 1887.

CHAPTER 128.

JOURNALS OF THE LEGISLATURE.

JOINT RESOLUTION Providing for Certain Public Printing and Making Appropriation for the Same.

Be it Resolved by the Council and House of Representatives of the Territory of Dakota:

THAT the Secretary of the Territory be authorized to have printed, two hundred and fifty copies each of the Council and House Journals to be bound at the close of the session in the same style as the Journals of the Sixteenth Legislative session were bound, and one hundred copies each of such Journals each

day, for the use of the Council and House, at a rate not to exceed \$1.70 per page for the entire work done, the pages to be paid for but once, regardless of rearrangement of forms, and no extra or other charges shall be allowed. Upon presentation to the Territorial Auditor of a properly verified account for printing done under the provisions of this resolution, such account having been approved in writing by the Secretary of the Territory, the Auditor shall draw his warrant on the Territorial Treasurer for the amount of said bill or bills, and there is hereby appropriated from the Territorial Treasury such sum as may be necessary to pay for said printing.

Approved, February 7, 1887.

CHAPTER 129.

LONG'S LEGISLATIVE HAND BOOK.

JOINT RESOLUTION Providing for the Printing of Long's Legislative Hand Book.

Be in Enacted by the House of Representatives, the Council Concurring:

§ 1. APPROPRIATION.] That there be and here is appropriated out of any funds in the Territorial Treasury not otherwise appropriated, the sum of three hundred and twenty-five dollars to pay for one hundred volumes of Long's Legislative Hand Book bound in cloth, and one hundred volumes of Long's Legislative Hand Book bound in paper, for the use of the members of the House and Council, and the officers thereof including also the Territorial officials.

§ 2. All acts and parts of acts conflicting with this act are hereby repealed.

§ 3. This act shall take effect and be in full force from and after its passage and approval.

Approved, February 15, 1887.

RAILROAD COMMISSION.

CHAPTER 130.

AN ACT To Regulate Grain Warehouses and the Inspection, Weighing and Handling of Grain and Defining the Duties of the Railroad and Warehouse Commission in Relation Thereto.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. POWERS.] That the duties imposed by the provisions of this act and the powers conferred herein, shall devolve upon the Railroad Commissioners, created by chapter 126, of the General Laws of the Sixteenth Legislative Assembly.

§ 2. To SUPERVISE THE HANDLING, INSPECTION, WEIGHING, GRADING AND STORAGE OF GRAIN.] That it shall be the duty of the Railroad Commissioners, of the Territory of Dakota, to supervise the handling, inspection, weighing, grading and storage of grain and seeds; to establish all necessary rules and regulations for the weighing and inspection of grain, and for the management of the public warehouses of the Territory, as far as such rules and regulations may be necessary, to enforce the provisions of this act or any law of this Territory in regard to the same; to investigate all complaints of fraud or oppressions in the grain trade of this Territory and to correct the same, as far as it may be in their power.

§ 3. RULES AND REGULATIONS TO BE PRINTED.] That the rules and regulations so established shall be printed and published by said Railroad Commissioners, in such manner as to give the greatest publicity thereto, and the same shall be in force and effect until they shall be changed or abrogated by said Commissioners in a like public manner.

§ 4. PUBLIC WAREHOUSE DEFINED.] That all elevators or warehouses in this Territory, in which grain is stored for a compensation are hereby declared to be public warehouses.

§ 5. PUBLIC WAREHOUSES TO OBTAIN LICENSE—POOLING IN PURCHASE AND STORAGE OF GRAIN PROHIBITED—PENALTY.] That it shall not be lawful for the proprietor, lessee or manager of any warehouse or elevator mentioned in section four of this act to transact any business until a license has been procured from the Railroad Commissioners permitting such proprietor, lessee or manager to transact business as a public warehouseman under the laws of this Territory, which license shall be issued by the Rail-

road Commissioners upon a written application, which shall set forth the location, and name, and capacity of such elevator or warehouse, and the individual name of each person interested, as owner or principal, in the management of the same; or, if the elevator or warehouse be owned or managed by a corporation the names of the president, secretary and treasurer of such corporation shall be stated, and the said license shall give authority to carry on and conduct the business of a public warehouse, in accordance with the laws of this Territory; *Provided*, That it shall be unlawful for any warehouseman, company or corporation, engaged in purchase and storage of grain, subject to the provisions of this act, to enter into any contract, agreement or combination with any other such warehouseman, company or corporation, for pooling in the purchase and storage of grain by different and competing warehousemen, companies or corporations, to divide between them the aggregate or net proceeds of margins or profits resulting from their said business as warehousemen or any portion thereof, and in any case of such contract, agreement or combination for such pooling of their said business as warehousemen each day of its continuance shall be deemed a separate offense. Any violation of this section shall on conviction be subject to a fine of not less than two hundred dollars for each offense.

§ 6. **BOND—FEE FOR LICENSE.**] That the person, association or corporation receiving license as herein provided, shall file with the Commissioners granting the same a bond to the Territory of Dakota, with good and sufficient sureties, in the penal sum of not less than two thousand dollars nor more than fifty thousand dollars for each and every elevator operated, proportioned to the capacity of the elevators or warehouses in the discretion of said commissioners, for each license so granted, conditioned for the faithful performance of duty as a public warehouseman, and a full and unreserved compliance with all the laws of this Territory in relation thereto. A fee of \$1 shall be paid for each license by the person, association or corporation applying for the same.

§ 7. **PENALTY ON FAILURE TO PROCURE LICENSE—WHEN LICENSE SHALL EXPIRE.**] That any person, association or corporation who shall transact the business of public warehouseman, without first procuring a license as herein provided, shall, on conviction be fined a sum not less than one hundred dollars for each and every day such business is carried on. Every such license shall expire on the first day of August, next following the issuance thereof.

§ 8. **WAREHOUSE RECEIPTS TO BE GIVEN.**] All owners of such elevators and warehouses so licensed, shall upon the request of any person delivering grain at such warehouse, give a warehouse receipt therefor, subject to the owner or consignee, which receipt shall bear date corresponding with the receipt of the grain and shall state upon its face, the quantity and grade fixed upon the same. All warehouse receipts issued for grain received, shall be

consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No warehouse receipt shall be issued, except upon actual delivery of grain into such warehouse. No such warehouseman shall insert into any warehouse receipt issued by him, any language in anywise limiting or modifying his liability, as imposed by the laws of this Territory.

§ 9. DUTY OF WAREHOUSEMAN UPON RETURN OF WAREHOUSE RECEIPT.] On the return of any warehouse receipt properly indorsed, and the tender of all proper charges upon the property represented by it, such grain or any equal quality of the same grade, shall be immediately delivered to the holder of such receipt as rapidly as due diligence, care and prudence will justify. Nothing in this section shall be construed to mean the delivery of the identical grain specified in the receipt so presented, but an equal amount of the same grade, and if the grain so delivered has not been cleaned by said warehouseman, there shall be added to the amount so delivered, the amount originally deducted from the grain stored, for dirt, which amount shall also be delivered; and when such grain is to be shipped to some terminal point, where such elevator company or warehouseman is then doing business, such elevator company or warehouseman shall guarantee both weight and grade.

§ 10. WAREHOUSEMEN TO FURNISH STATEMENTS TO COMMISSION.] That every owner or manager of such warehouse, at such times as the Commissioners shall require, shall furnish to the Commissioners in writing, under oath, a statement of the condition and management of his business, as such warehouseman. Such report shall show the total number of bushels of each kind and grade of grain in store, and the number delivered out, and the number remaining in store at the date of the report. But no warehouseman shall be required to weigh the grain on hand more than once in each year, and the warehouseman shall, in addition to the statements herein, be required to furnish to the Commissioners any other information regarding the business of his warehouse which the Commissioners may require.

§ 11. COMMISSIONERS TO INSPECT WAREHOUSES.] The Commissioners shall cause every warehouse, and the business thereof, and the mode of conducting the same, to be inspected at such times as the Commission may order, by one or more members of the Commissioners, who shall report in writing to the Commissioners the result of such examination; and the property, books, records, accounts, paper and proceedings kept at each warehouse, so far as they relate to their condition, operation or management, shall at all times during business hours be subject to the examination and inspection of such Commissioners.

§ 12. COMMISSION TO ESTABLISH GRADES—SAME TO BE PUBLISHED.] The Railroad Commissioners shall, before the first day of September in each year, establish a grade for all kinds of

grain bought or handled by any elevator or warehouse in this Territory, which shall be known as "Dakota Grades," but which shall not differ from grades in the State of Minnesota, and the grades so established shall be printed and published in the manner required by section five of this act; *Provided*, That no such publication shall be necessary, except when changes are made in such grades, and when the changes so made, only shall be published.

§ 13. MONIES TO BE PAID INTO TERRITORIAL TREASURY.] All monies collected by the Railroad Commissioners, as herein provided for, shall be paid in [into] the Territorial Treasury.

§ 14. DUTY OF TERRITORIAL TREASURER IN RELATION THERETO.] It shall be the duty of the Treasurer of the Territory of Dakota to receive all monies aforesaid, and all fines and penalties collected by virtue of this act, and to keep a separate account of the same, and pay the same on the order of the Railroad Commissioners, and not otherwise.

§ 15. SAMPLE OF GRADES TO BE KEPT BY WAREHOUSEMEN.] Each warehouseman shall procure from the Commissioners and shall at all times keep in a conspicuous place in his warehouse a sample of each of the existing grades of grain, established by the Commissioners, which are handled or stored in such warehouse. No warehouseman or other person shall fraudulently change such samples or grades.

§ 16. HOW RECEIPTS MAY BE CANCELLED.] Upon the delivery of grain from store upon any receipt, such receipt shall be plainly marked across its face, the word "cancelled," and shall thereafter be void, and shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No warehouse receipt shall be issued except upon actual delivery of grain into store in the warehouse from which it purports to be issued, and which is to be represented by the receipts; nor shall any receipt be issued, for a greater quantity of grain than was contained in the lot or parcel stated to have been received; nor shall more than one receipt be issued, for the same lot of grain, except in cases where receipt for part of a lot is desired, and then the aggregate receipts for a particular lot shall cover that lot and no more. In cases where a part of the grain represented by the receipt is delivered out of store, and the remainder is left, a new receipt may be issued for such remainder, but the new receipt shall bear the same date as the original, and shall state on the face that it is balance of receipt of the original number, and the receipt upon which a part has been delivered shall be cancelled in the same manner as if it had all been delivered. In case to [it] be desirable, to divide one receipt into two or more, or in case it be desirable to consolidate two or more receipts into one, and the warehouseman consents thereto, the original receipt shall be cancelled, the same as if the grain had been delivered from store, and the new receipts shall express on their face that they are a

part of another receipt, or a consolidation of other receipts, as the case may be; and the numbers of the original receipts shall also appear upon the new ones issued, as explanatory of the change; but no consolidation of receipts of dates differing more than ten (10) days shall be permitted and all new receipts issued for old ones cancelled, as herein provided, shall bear the same date as those originally issued, as near as may be.

§ 17. WAREHOUSEMAN TO PUBLISH SCHEDULE OF RATES—SAME TO BE APPROVED BY COMMISSION.] Every warehouseman of public warehouses shall be required, during the first week in September of each year, to publish in one of the newspapers (daily, if there be such,) published in the city or village in which said warehouse is situated, a table or schedule of rates for the storage of grain in his warehouse, during the ensuing year, which rates shall not be increased during the year, and he shall cause the same to be plainly printed on the warehouse receipts or tickets, and such published rates or any published reduction of them, shall apply to all grain received into such warehouse from any person or source. The charges for storage and handling shall in all cases be equal and just, and shall be approved by the Board of Railroad Commissioners before going into effect, and shall not exceed the usual charges heretofore existing.

§ 18. ATTORNEY GENERAL EX-OFFICIO ATTORNEY FOR THE COMMISSIONERS.] The Attorney General of the Territory shall be ex-officio attorney for the Railroad Commissioners, and shall give them such counsel and advice as the may from time to time require, and he shall institute and prosecute any and all suits which said Railroad Commissioners may deem expedient and proper to institute, and he shall render to such Railroad Commissioners all counsel advice and assistance necessary to carry out the provisions of this act, or any law of this Territory, which said commissioners are required to enforce, according to the true intent and meaning thereof. In all criminal prosecutions against a warehouseman for the violation of any of the provisions of this act, it shall be the duty of the district attorney of the county in which such prosecution is brought, to prosecute the same to a final issue.

§ 19. BONDS TO BE FILED WITH TERRITORIAL AUDITOR.] All official bouds required to be given by any person, company or corporation, pursuant to the provisions of this act, shall be filed in the office of the Auditor of the Territory of Dakota, and suit may be brought thereon in any court having jurisdiction thereof, for the use of any person or persons complaining of having sustained any injury, by reason of the violation of the conditions thereof.

§ 20. UNLAWFUL COMBINATION PROHIBITED.] It shall be unlawful for any proprietor, lessee, or manager of any public warehouse, to enter into any contract, agreement, understanding or combination with any railroad company or other corporation, or

with any individual or individuals, by which the property of any person is to be delivered to any public warehouse for storage or for any other purpose, contrary to the direction of the owner, his agent or consignee. Each warehouseman shall also keep posted at all times in a conspicuous place in his warehouse a printed copy of the schedule of grades established by the Commissioners, and a printed copy of this act and of the rules and regulations for the management of warehouses, established by the Commissioners, to be furnished by the Railroad Commissioners.

§ 21. PENALTY FOR VIOLATION OF THIS ACT.] That any person, association or corporation or any representative thereof, who shall knowingly cheat or falsely weigh, any wheat or other agricultural products, or who shall violate the provisions of any section of this act, or who shall do or perform any act, or thing therein forbidden, or who shall fail to do and keep the requirements as herein provided, shall on conviction thereof be subject to a fine of not less than one hundred dollars nor more than one thousand dollars and be liable in addition thereto, to imprisonment, for not more than one year in the Territorial prison, at the discretion of the court.

§ 22. This act shall take effect and be in force from and after July 1, 1887.

Approved, March 11, 1887.

CHAPTER 131.

APPROPRIATION FOR EXPENSES OF RAILROAD COMMISSIONERS.

AN ACT Making an Appropriation for Expenses of Railroad Commissioners for the Two Years Ending April 1, 1889.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION FOR TRAVELING EXPENSES, ETC.] There is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated, the sum of three thousand (3,000) dollars, or so much thereof as may be necessary for the purpose of paying the traveling and other expenses of the Board of Railroad Commissioners for the two years ending April 1, 1889, to be paid only upon accounts duly audited by the Territorial Auditor.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

RAILWAY POLICE.

CHAPTER 132.

RAILWAY COMPANIES AUTHORIZED TO APPOINT POLICE UNDER CERTAIN RESTRICTIONS.

AN ACT To Authorize Railway Companies to Appoint Police Officers.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. RAILWAY COMPANIES APPOINT POLICE—POWERS CONFERRED.]
Railway companies organized under the laws of this Territory, or doing business within the Territory, are hereby authorized and empowered at their own expense to appoint and employ policemen at such stations or other places on the lines of their railroads within this Territory, as said companies may deem necessary for the protection of their property, and the preservation of order on their premises, and in and about their cars, depots, depot grounds, yards, buildings or other structures; and said policemen shall have power and authority to arrest, with or without warrant, any person or persons who shall commit any offense against the laws of this Territory, or the ordinances of any town, city, village or municipality, when such offense shall have been committed upon the premises of said companies, or in and about their cars, depots, depot grounds, yards, buildings or other structures; and shall also have the authority of sheriffs, constables and peace officers in regard to the arrest and apprehension of any such offenders, in or about the premises or appurtenances aforesaid; but in case of the arrest by said policemen of any person without warrant, they shall forthwith take such offender before some justice of the peace or other magistrate having jurisdiction, and make complaint against said offender according to law. Nothing in this act contained shall be construed as restricting the lawful rights, powers or privileges of any sheriff, constable, policeman, or peace officer within their respective jurisdiction, and for the official acts of such policeman or policemen the railroad company making such appointment shall be held responsible to the same extent as for the acts of any of its general agents or employes.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

RAPE.

CHAPTER 133.

AGE OF CONSENT.

AN ACT To Amend Subdivision One, of Section 320, Chapter Twenty-six, of the Penal Code.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **AGE OF CONSENT.**] That subdivision one of section 320, of chapter twenty-six of the Penal Code, be and the same is hereby amended by striking out the word "ten" in said subdivision one, and inserting in lieu thereof the word "fourteen."

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect from and after its passage and approval.

Approved, February 7, 1887.

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RECORDS.

CHAPTER 134.

GRANTOR AND GRANTEE INDEXES.

AN ACT Compelling Registers of Deeds to Keep Grantor and Grantee Indexes to Conveyances and Other Instruments of Record on File in his Office Affecting Real Estate.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. GRANTOR AND GRANTEE INDEXES REQUIRED.] The registers of deeds of each county in this Territory shall prepare from the records of their offices respectively, and shall hereafter keep grantor and grantee indexes of the deeds, mortgages and other instruments of record on file in their respective offices, affecting or relating to the title of real property, in addition to the numerical indexes as now kept.

§ 2. SEPARATE INDEXES OF DEEDS AND LIENS.] There shall be prepared and kept, one index of the deeds and contracts and other instruments, not liens merely, and another index of the mortgages and other instruments which are liens, which indexes shall show the names of the grantors and grantees, dates of instruments, dates of filing and descriptions of property affected.

§ 3. COMPENSATION FOR MAKING INDEXES.] For the making and preparing of the indexes to the instruments now of record, the register of deeds shall be allowed by the county commissioners, and paid out of the county treasury of their respective counties, such just sum as shall be reasonable and proper, not to exceed three cents per description, and for keeping such indexes hereafter, they shall receive no compensation beyond their fees now allowed, or that may hereafter be allowed, for the recording or filing of instruments, the indexing being a part of their duties in recording or filing the instruments.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

REFORM SCHOOL.

CHAPTER 135.

AMENDING ACT LOCATING SCHOOL AT PLANKINTON.

AN ACT To Amend Sections One, Two and Four, of Chapter Twenty-five, of the Special Laws Passed at the Fifteenth Session of the Legislative Assembly of the Territory of Dakota, Approved March 9, 1883, Entitled, "An act to Locate and Establish a Reform School for Juvenile Offenders at or Near the Village of Plankinton, in Aurora County, Dakota Territory."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AMENDING SECTIONS ONE, TWO AND FOUR, OF CHAPTER TWENTY-FIVE, SPECIAL LAWS 1883.] That sections one, two and four, of chapter twenty-five, of the Special Laws passed at the fifteenth session of the Legislative Assembly of the Territory of Dakota, approved March 9, 1883, entitled, "An act to locate and establish a Reform School for juvenile offenders at or near the village of Plankinton, in Aurora county, Dakota Territory," be amended so as to read as follows:

§ 1. LOCATION.] A Reform School shall be permanently located at or within two miles of the corporate limits of the town of Plankinton in Aurora county, Dakota Territory, and be maintained for the reformation of such boys and girls under the age of eighteen years, who may be committed to it as hereinafter provided, said school to be known as a Dakota Reform School.

§ 2. TRUSTEES.] There shall be a Board of Trustees, whose name and style shall be, the "The Board of Trustees of the Dakota Reform School," which shall consist of five persons, who shall be nominated by the Governor, and confirmed by the Legislative Council, and who shall hold office for the term of two years and until their successors are chosen and qualified; and such trustees shall, before entering upon the discharge of their duties, take and subscribe an oath or affirmation, to support the Constitution of the United States, and the Organic Act of this Territory, and faithfully discharge the duties required of them by law.

§ 4. OFFICERS AND DUTIES.] Said board of trustees shall supervise the erection of all buildings authorized to be built for said Reform School, and may appoint a superintendent of construction, whose duties shall be, acting under the advice and in-

struction of said board, to examine all work being done on said buildings and all material furnished therefor, and to perform any other duty that may be required of him by said board of trustees. Said superintendent shall hold his said office for a length of time, to be fixed by said board of trustees, and at a compensation of not to exceed five dollars per day. Said trustees shall from their board appoint a president, secretary and treasurer, and shall take charge of the general interests of the institution, shall have power to enact by-laws and rules for the regulation of all its concerns, not inconsistent with the laws of this Territory, to see that its affairs are conducted in accordance with the requirements of law, and that strict discipline is maintained therein; to provide employment and instruction for the inmates; to appoint a superintendent, a steward, a teacher or teachers and such other officers as in their judgment the wants of the institution may require, and prescribe their duties; to exercise a vigilant supervision over the institution, its officers and inmates, and determine the salaries to be paid to the officers, and order their removal upon good cause; and shall also require the treasurer to execute a bond to the Territory of Dakota, in a sufficient amount, to be approved by the Governor and filed in the office of the Secretary of the Territory.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1887.

CHAPTER 136.

AUTHORIZING ISSUE OF BONDS FOR REFORM SCHOOL AT PLANKINTON.

AN ACT to Provide Funds for the Construction and Furnishing of Necessary Buildings for the Dakota Reform School, at Plankinton, Dakota, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FUNDS—HOW PROVIDED.] That for the purpose of providing funds to pay the cost of erecting, heating and furnishing necessary buildings for the Dakota Reform School, at Plankinton, in this Territory, bonds of this Territory shall be issued to the amount, not to exceed \$30,000, in denominations of \$500 each, bearing date the first day of May A. D. 1887, running for a term of twenty years and payable at the option of the Territory at any time after ten years from the date of the same, and bearing interest at the rate of five per cent. per annum with coupons attached,

payable semi-annually on the first days of July and January of each year, at some place in New York City, to be specified in said bonds. Such bonds shall be executed for the Territory and under the seal thereof, shall be signed by the Governor and shall be attested by the Secretary and negotiated by the Treasurer.

§ 2. BONDS—HOW SOLD.] It shall be the duty of the Treasurer, to receive sealed proposals for the purchase of said bonds, and upon the request of the board of trustees of said Dakota Reform School, he shall give public notice for thirty (30) days in two (2) newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash, at not less than their par value.

§ 3. TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied and collected, in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and the exchange thereon, and after six (6) years from the first (1) day of May, 1887, in addition thereto a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer, to pay promptly on the first days of January and July of each year, such interest as shall be due, and to purchase said bonds at not more than their par value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received, and no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 4. PAYMENT OF INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided, to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 5. CERTAIN MONEYS TO BE REPLACED.] All moneys belonging to the general Territorial fund, applied by said Treasurer in payment of either principal or interest of said bonds shall be replaced from the special tax levied to pay the same.

§ 6. DUTY OF TRUSTEES IN LETTING CONTRACT.] The board of trustees of the Dakota Reform School at Plankinton, Dakota, shall immediately after the passage and approval of this act prepare, or cause to be prepared, plans and specifications for the necessary building or buildings enumerated in section one (1) of this

act, and after the same shall have been approved by them and the Governor of the Territory, the said board of trustees shall cause said plans and specifications to be filed with their secretary, and it shall be the duty of said board within twenty (20) days thereafter to give public notice, which notice shall be inserted for thirty (30) days in two (2) newspapers, published in the Territory and of general circulation therein, and in two (2) newspapers published in other states, and that on a day specified in such notice they will receive proposals at the office of the secretary at Plankinton, (and elsewhere as they may designate) for the building of said necessary buildings, according to the plans and specifications aforesaid, which shall be open for the inspection of bidders, at the office of the secretary at Plankinton, and at such place or places as the board may designate.

§ 7. **TOTAL COST.**] The total cost of the building [of] said necessary buildings, including the furnishing thereof, shall not exceed thirty thousand (30,000) dollars.

§ 8. **CONTRACT—HOW AWARDED—BOND.**] On the day advertised for the opening of the proposals for building said necessary buildings and furnishing the same, the board of trustees shall proceed to award the contract or contracts to the lowest and best bidder or bidders, reserving the right to reject any and all bids, if in their judgment they are too high, and in such case they may again advertise for such proposals and award such contract or contracts as above provided. Before entering into contracts for the erection of said buildings and furnishing the same, the board of trustees shall require the successful bidder or bidders to enter into bonds in such sum as may be required by the board of trustees and the Governor of the the Territory, with good and sufficient sureties, conditioned for the faithful execution of such contract or contracts.

§ 9. **BUILDING MATERIAL.**] The walls of said buildings shall be constructed of good brick or stone, and said buildings shall be made as nearly fire proof as practicable.

§ 10. **PARTIAL PAYMENTS.**] The board of trustees as the work progresses, shall on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on said buildings and on such certified statement, the auditor shall issue a warrant on the Territorial Treasurer, for a sum not exceeding eighty (80) per cent, of the value of the work so certified to have been done, at the time of making such application, including amount of all warrants previously issued, in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said work shall be paid, or the value of the work certified by the trustees, until at least one-third ($\frac{1}{3}$) of the work has been completed by the contractor or contractors.

§ 11. **CONTRACT, WHAT TO PROVIDE.**] The contract or contracts aforesaid shall stipulate that all material shall be of good quality,

and that the work shall be performed in a good, workmanlike manner, and these stipulations shall be enforced.

§ 12. FINAL PAYMENTS.] The balance due the contractor or contractors under the contract or contracts, shall be paid on the completion of the work, and its acceptance and approval of [by] the board of trustees.

§ 13. APPROPRIATION.] That there is hereby appropriated for the performance of the work named in section one (1) of this act, all sums realized from the sale of the bonds hereinbefore specified, and the same, and all thereof, shall be at the disposal of the board of trustees for the purposes hereinbefore named.

§ 14. IN CASE OF DIVISION OF TERRITORY.] In case of the division of the Territory, that part of the Territory of Dakota in which the Dakota Reform School is located, shall, on the division of the Territory, assume and pay all bonds and coupons issued and then existing on account of the construction of the said buildings.

§ 15. ACT TAKE EFFECT, WHEN.] That this act shall take effect and be in force whenever there shall be donated and conveyed to the Territory of Dakota by a good and sufficient warranty deed of not less than eighty acres of land, to be situate within two miles of the corporate limits of the town of Plankinton, as a site for the said Reform School buildings, the said deed to be filed with and approved by the Governor on or before the first day of May, A. D. 1887.

Approved, March 8, 1887.

CHAPTER 137.

APPROPRIATION FOR MAINTENANCE REFORM SCHOOL AT PLANKINTON.

AN ACT Appropriating Funds for the Maintenance of the Dakota Reform School at Plankinton, Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CURRENT AND CONTINGENT EXPENSES.] There is hereby appropriated, out of any moneys in the Territorial Treasury not otherwise appropriated, the sum of twelve thousand (12,000) dollars, or so much thereof as may be necessary for the purpose of paying the current and contingent expenses of the Dakota Reform School at Plankinton, Dakota, from such time as the same may be

completed and in running order, until the next session of the Legislative Assembly of Dakota.

§ 2. **DISTRIBUTION BY TRUSTEES.**] The said sum of twelve thousand (12,000) dollars, or so much thereof as may be necessary, shall be expended in the discretion of the board of trustees of said school, for the proper maintenance of such persons, as may become inmates of said school, and for the employment of suitable officers and servants, and for such other contingent expenses as may be necessary to incur, in the proper maintenance and management of said school, from the time the same may be ready to receive inmates sentenced to be there confined, until the next session of the Legislative Assembly of the Territory of Dakota.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

REGISTRATION OF ANIMALS.

CHAPTER 138.

MISDEMEANOR TO GIVE FALSE PEDIGREE.

AN ACT to Punish False Pretences in Obtaining Registration of Cattle and Other Animals, and to Punish Giving False Pedigrees.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **UNLAWFUL TO GIVE FALSE PEDIGREE.**] Every person who by any false pretense shall obtain from any club, association, society or company, for improving the breed of cattle, horses, sheep, swine, or other domestic animals, the registration of any animal in the herd register of any such club, association, society or company, or a transfer of any such registration, and every person who shall knowingly give a false pedigree of any animal shall be deemed guilty of a misdemeanor.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

REVENUE.

CHAPTER 139.

AUTHORIZING CITIES, TOWNS AND VILLAGES TO LEVY AND COLLECT TAXES FOR MUNICIPAL PURPOSES.

AN ACT To Authorize Cities, Towns and Villages to Levy and Collect Taxes for Municipal Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. INTEREST FUND.] Any city, town or village heretofore incorporated by virtue of any law of the Territory of Dakota, and having not less than three thousand inhabitants, is hereby authorized and empowered through its proper officers to levy and collect taxes not exceeding twelve mills on the dollar of the assessed valuation of said city, town or village, for the purpose of creating an interest fund with which to pay interest upon the existing bonded indebtedness of such municipality, including bonds, if any, issued under the direction of the respective boards of education therein. If any officer or officers of the said municipality shall use the moneys collected by virtue of this section for any other purpose than that expressed therein, he or they shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred and not more than five hundred dollars or imprisoned in the county jail not less than thirty days nor more than one year.

§ 2. SINKING FUND.] To levy and collect taxes not exceeding four mills on the dollar for the purpose of creating a sinking fund to pay the bonds of said municipality as the same may mature; and the proper officers of such municipality may invest the money in said fund in interest bearing securities of the Territory of Dakota, or of any organized county of said Territory or of said municipality, and shall in no other manner dispose of the money in said fund, and if any officer or officers of said municipalities shall use the money in said fund in any other manner than provided in this section he or they shall be guilty of a misdemeanor.

§ 3. FOR SCHOOL PURPOSES.] To levy and collect taxes for school purposes not to exceed twenty mills on the dollar, the taxes so levied and collected to be kept in a fund to be called the school

fund and the same to be expended under the direction of the board of education.

§ 4. FOR OTHER MUNICIPAL PURPOSES.] To levy and collect taxes not exceeding ten mills on the dollar for all other municipal purposes in any one year, on all taxable property within said municipality, and taxes so levied and collected to be kept in a fund to be called the general fund.

§ 5. SPECIAL ASSESSMENTS FOR SIDEWALKS.] To levy and collect special assessments for sidewalks and street improvements as hereinafter provided, and the money so collected shall be kept in a fund called the special assessment fund.

§ 6. UNLAWFUL TO INCUR INDEBTEDNESS ABOVE CERTAIN AMOUNT—EXCEPT—PENALTY.] It shall be unlawful for the officers of such municipality to incur any greater indebtedness in any one year than three thousand dollars in excess of the taxes levied for that year, unless authorized and directed so to do by a vote of the electors of such municipality at an election held for that purpose. Any officer or officers contracting the same shall be guilty of a misdemeanor, and if any officer of said municipality shall issue any evidence of such indebtedness he shall be guilty of a misdemeanor.

§ 7. All acts and parts of acts, either general or special, in conflict with this act be and the same are hereby repealed.

§ 8. This act shall take effect and be in force from and after its passage.

Approved, March 11, 1887.

CHAPTER 140.

ASSESSMENT OF BANK STOCK.

AN ACT Providing the Manner for Assessing the Stocks and Shares of Banks and Bank Associations and Collecting Tax for the Same.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. HOW ASSESSED AND TAXED.] The stockholders in every bank located within this Territory, whether such bank has been organized under the banking laws of this Territory or any other state or territory, or of the United States, shall be assessed and taxed on the value of their shares of stock therein in the county, town, district, village or city where such bank or banking association is located and not elsewhere, whether such stockholder resides in such place or not. Such shares shall be listed and assessed with regard to the ownership and value thereof as they

existed on the first day of April annually, subject, however, to the restriction that taxation of such shares shall not be a greater rate than is assessed upon any other monied capital in the hands of individual citizens of this Territory, in the county, town, district, village or city where such bank is located. The shares of capital stock of national banks not located in this Territory, held in this Territory, shall not be required to be listed under the provisions of this act.

§ 2. LIST OF STOCKHOLDERS TO BE KEPT, ETC.] In each such bank there shall be kept at all times a full and correct list of the names and residences of its stockholders, and of the number of shares held by each; which list shall be subject to the inspection of the officers authorized to assess property for taxation, and it shall be the duty of the assessor to ascertain a correct list of the names and residences of all stockholders in any such bank, with the number and assessed value of all such shares held by each stockholder, and enter the same on his tax list.

§ 3. SHARES LISTED IN NAMES OF OWNERS.] The assessor shall enter the valuation of such shares in the tax lists in the names of the respective owners of the same, and shall so do the same as against the valuation of other property in the same locality.

§ 4. HOW TAX ON SHARES COLLECTED—LIEN.] The officer or officers, authorized to receive taxes, may all or either of them, have an action to collect the tax assessed on any share or shares of bank stock from the avails of the sale of such share or shares, and the tax against such share or shares shall be and remain a lien thereon from April first in each year till the payment of said tax.

§ 5. DIVIDENDS TO BE HELD FOR TAXES—SHARES SOLD—WHEN.] For the purpose of collecting such taxes, it shall be the duty of every such bank, or the managing officer or officers thereof, to retain so much of every dividend or dividends belonging to such stockholders as shall be necessary to pay any taxes levied upon their shares of stock respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid, and any officer of any such bank who shall pay over or authorize the paying over of any such dividend or dividends, or any portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax; and if the said tax shall not be paid, the collector of taxes where said bank is located shall sell said share or shares to pay the same, like other personal property, and in case of sale the provisions of law in regard to the transfer of stock, when sold on execution, shall apply to such sale.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 141.

ASSESSMENT AND TAXATION OF PROPERTY OF TELEGRAPH COMPANIES.

AN ACT To Provide for the Assessment and Taxation of the Property of Telegraph Companies in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TELEGRAPH COMPANIES TO OBTAIN LICENSES.] Any person, company or corporation, owning or operating any lines of telegraph within this Territory, shall obtain a license therefor at the time and in the manner provided in this act. Such license shall be applied for, on or before the first day of January in each year and the application shall be made to the Treasurer of the Territory.

§ 2. COMPANIES OPERATING LINES TO MAKE STATEMENT TO TREASURER.] Any person, company or corporation, owning or operating telegraph lines within this Territory shall at the time of applying for such license in each year, make a statement in writing to the Treasurer of the Territory, duly verified by such person or by the president or managing officer of such corporation, which statement shall be in such form as the Treasurer may prescribe and shall accurately and truthfully show the following facts.

1. The number of miles of telegraph line owned or operated within this Territory.

2. The number of wires operated or used on each separate division of such line within this Territory.

3. The number of offices maintained within this Territory by such person, company or corporation and the number of instruments used on the lines of such person, company or corporation within this Territory.

§ 3. WHEN TREASURER TO ISSUE LICENSE.] Upon examining the report of any such person, company or corporation the Treasurer of the Territory shall, if he finds such report in conformity with the laws of this Territory, issue to the person, company or corporation so making such report, a license to operate such telegraph line or lines for the calendar year, commencing on the preceding first day of January and terminating on the thirty-first day of December next succeeding. Such license shall by its terms be conditioned upon the prompt payment of the license fees imposed by this act. Upon failure or neglect to pay such license fees at

the time fixed by this act for the payment of the same, such license shall terminate immediately, and for such unpaid license fees the Territory of Dakota shall have a lien upon all the telegraph lines and appurtenances owned or operated by such delinquent persons, companies or corporations, and the Attorney General shall in such case proceed by action at law to collect such license fees.

§ 4. LICENSE FEE, HOW PAID.] Any person, company or corporation, owning or operating lines of telegraph within this Territory shall annually pay to the Treasurer of the Territory on or before the first day of April in each year a license fee as follows: For the first wire used or operated on such line of telegraph, sixty (60) cents per mile, for the second (2d) wire thirty (30) cents per mile, for the third (3d) and all additional wires twenty (20) cents per mile.

§ 5. LICENSE IN LIEU OF ALL OTHER TAXES.] The license fees prescribed in this act shall be in lieu of all other taxes, Territorial or local. One-third ($\frac{1}{3}$) thereof shall be retained for the use of the Territory, and the remainder shall be apportioned among the several counties into or through which said lines respectively may be located, in proportion to the number of wires and miles of lines located in such counties respectively.

§ 6. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

§ 7. This act shall take effect and be in force from and after its passage.

Approved, March 3, 1887.

CHAPTER 142.

PROVIDING FOR COLLECTION OF CITY TAXES IN INCORPORATED CITIES.

AN ACT To Provide for the Collection of City Taxes in Incorporated Cities of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CITY PROPERTY—HOW ASSESSED.] That the assessors, of the several incorporated cities of the Territory of Dakota, having city assessors, shall make out and deliver to the county clerks of their respective counties, the assessment roll of the said city or cities, at the time and in the manner provided by the General Laws of the Territory of Dakota, for county and township assessors.

§ 2. DUTY OF COMMON COUNCIL.] The common council of such cities shall, on or before the first Monday in August in each year, make this tax levy for the current fiscal year and fix the rate of taxation upon property in the said city, and the clerks of said cities shall forthwith transmit the same to the county clerk of such county or counties.

§ 3. DUTY OF COUNTY CLERK.] It shall be the duty of the county clerk in making out the tax list for said year, to place the amount of said city taxes, in accordance with said levy, in separate columns, in the lists of both personal property and lands, opposite the respective names and parcel of land on said lists.

§ 4. DUTY OF COUNTY TREASURER.] The treasurer of such county shall thereupon collect said taxes in the same manner as a part of the general taxes for that year, and shall pay the same over to the city treasurer of such city or cities as fast as collected, and shall take the said city treasurer's voucher therefor.

§ 5. SALARIES OF CITY TREASURERS.] The city council of all such cities shall have authority to regulate and fix the compensation and salaries of city treasurers, within their respective cities, whether such cities have heretofore had such power under their charters or not, and such salaries shall in no case exceed six hundred dollars.

§ 6. THIS ACT NOT TO APPLY TO SPECIAL IMPROVEMENTS.] This act shall not apply to taxes levied by such cities for special improvements therein.

§ 7. All acts and parts of acts in conflict herewith act are hereby repealed.

§ 8. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 143.

REGARDING TAX LISTS AND COUNTY TREASURER'S RECEIPTS FOR TAXES PAID.

AN ACT To Amend Sections Thirty-Seven and Forty-Three of Chapter Twenty-Eight of the Political Code.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REGARDING TAX LISTS.] That section thirty-seven of chapter twenty-eight of the Political Code, be and the same is hereby amended, by adding thereto the following: "Such tax list

shall also specify the years for which any of the real estate described therein has been sold for taxes, and not redeemed."

§ 2. RECEIPTS SPECIFY WHEN SOLD AND NOT REDEEMED.] That section forty-three of chapter twenty-eight of the Political Code be and the same is hereby amended by adding thereto the following: "Such duplicate receipts shall also specify the years for which any of the real estate described therein has been sold for taxes and not redeemed."

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 5, 1887.

CHAPTER 144.

AUTHORIZING BOARDS OF COUNTY COMMISSIONERS TO TRANSFER UNEXPENDED BALANCES.

AN ACT Authorizing Boards of County Commissioners to Transfer Unexpended Balances of Special Funds in Certain Cases.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. UNEXPENDED BALANCES MAY BE TRANSFERRED—WHEN.] Whenever there remains in the treasury of any county, an unexpended balance of any special fund, and all claims against such fund have been fully paid, and the purpose for which it was created has been fully subserved, and there remains no further use for such balance for the purpose for which it was created, it shall be lawful for the board of county commissioners of such county to transfer such balance to any other fund of the county or subdivisions, to which such balance belonged.

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect on and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 145.

REDEMPTION.

AN ACT To Amend Section Seventy of Chapter Twenty-eight of the Political Code Entitled "Revenue."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **MAY REDEEM—HOW—PROVIDED.**] Section seventy, of chapter twenty-eight, of the Political Code entitled "Revenue," is hereby amended by adding to, at the close of said section, the following words: "and, *Provided further*, That when the owner or occupant of any land which has been sold for taxes, and who desires to redeem the same, shall not demand a receipt or certificate of redemption from the county treasurer, the return of the certificate of purchase for cancellation shall operate as a release of all the claim to the tract or lot described therein, under or by virtue of the purchase, and the county treasurer, upon receiving such certificate of purchase, shall mark on the tax sale record, opposite the description of the property for which said certificate of purchase had been issued 'Sale cancelled by return of certificate.'" The fee for making said entry shall be ten (10) cents for each description.

§ 2. All acts or parts of acts, in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 146.

EXTENSION OF TIME FOR PAYMENT OF TAXES OF 1886.

AN ACT Providing for an Extension of the Time for the Payment of Taxes of 1886.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **WHEN TAXES DELINQUENT—WHEN PENALTY ADDED.**] That all unpaid taxes for the year 1886 shall become delinquent on the first Monday of February, 1887, and shall draw interest at the

rate of one per cent. per month from the date of such delinquency until the first day of July, 1887, at which latter date there shall be added as a penalty five per cent. upon the amount so remaining unpaid, and one per cent. per month thereafter until paid, to be added on the first day of each succeeding month.

§ 2. DISTRESS AND SALE—DUTY OF COUNTY TREASURER.] The county treasurers of the various counties in this Territory shall not proceed to collect by distress and sale any of the taxes herein-before referred to, until after the first day of July A. D. 1887; *Provided*, That in case any person having only personal property assessed and upon which the taxes are unpaid, shall in the opinion of the treasurer, be about to move out of the county or dispose of such property, it shall be the duty of such treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands, as provided by law.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, January 28, 1887.

CHAPTER 147.

REGULATING EXPENDITURE OF ROAD TAXES COLLECTED IN INCORPORATED CITIES AND TOWNS.

AN ACT Respecting the Expenditure of Road Funds.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COUNTY TREASURER TO TURN OVER CERTAIN FUNDS TO CITY OR TOWN TREASURER.] That all road taxes collected as personal taxes from residents of any incorporated city or town, and all road taxes collected on account of real or personal property situated within any incorporated city or town, by the treasurer of the county in which such city or town is located, shall be turned over quarterly by such treasurer to the treasurer of such incorporated city or town, to be expended under the direction of the city council of such city, or of the board of trustees of such town, as the case may be, in the improvements of the streets or bridges of such city or town, or of the roads approaching thereto.

§ 2. That all acts and parts of acts in conflict with this act are hereby repealed.

§ 3. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

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SCHOOL OF MINES.

CHAPTER 148.

AUTHORIZING ISSUE OF BONDS FOR METALLURGICAL LABORATORY.

AN ACT To Provide Funds for the Construction and Furnishing of a Metallurgical Laboratory for the School of Mines at Rapid City Dakota, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the funds provided for in this act, the sums hereinafter mentioned, to-wit:

For constructing a metallurgical laboratory, on the grounds of the School of Mines at Rapid City, Dakota, and furnishing the same, ten thousand (10,000) dollars.

For machinery for same, ten thousand (10,000) dollars.

For engineering instruments, one thousand (1,000) dollars.

For completion of chemical laboratory two thousand (2,000) dollars.

§ 2. FUNDS—HOW PROVIDED.] To provide such funds, bonds of this Territory shall be issued, to the amount of not to exceed twenty-three thousand (23,000) dollars, in denominations of five hundred dollars each, bearing date the first day of May, eighteen hundred and eighty-seven, with interest payable semi-annually at some place in New York city, to be specified in said bonds, on the first day of July and January of each year, at the rate of five per cent. per annum, running twenty years and payable at the option of the Territory, at any time after ten years from the date of the same.

§ 3. BONDS—HOW EXECUTED.] Such bonds shall be executed for the Territory, and under the seal thereof, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 4. BONDS—HOW SOLD.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers of general circulation, one of which shall be published in the Territory and

the other in the city of New York, and said bonds shall be sold to the highest bidder for cash, at not less than par.

§ 5. **TAX.]** For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied, and collected in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and exchange thereon, and after ten years from the first day of May, eighteen hundred and eighty-seven, in addition thereto a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity, and it shall be the duty of the Territorial Treasurer, to pay promptly on the first days of January and July of each year, such interest as shall be due, and to purchase said bonds at not more than their par value, and retire and cancel the same, with the sinking fund as fast as the same shall be received; and no tax or fund provided for the payment of such bonds, either principal or interest, shall be at any time used for any other purpose.

§ 6. **PAYMENT OF INTEREST.]** If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided, to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated funds belonging to the Territory; and there is hereby appropriated and set apart out of the general fund belonging to the Territory, a sum sufficient to pay such interest on said bonds as may become due, before the funds and tax herein provided can be made available, and it shall be the duty of the Treasurer to pay said interest promptly, at the time it falls due, out of said funds.

§ 7. **REPLACING FUNDS.]** All moneys belonging to the general Territorial fund, applied by said Treasurer in the payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 8. **DUTY OF TRUSTEES IN LETTING CONTRACT.]** The board of trustees of the School of Mines at Rapid City shall immediately after the passage and approval of this act, prepare of cause to be prepared, plans and specifications for building the additions and improvements enumerated in section one of this act, and after the same shall have been adopted and approved by them and the governor of this Territory, the said board of trustees shall cause said plans and specifications to be filed with their secretary, and it shall be the duty of said board, within twenty days thereafter to give public notice, which notice shall be inserted for thirty days in two newspapers published in the Territory and of general circulation therein, and in two newspapers, published in other states, and that on a day specified in such notice they will receive sealed proposals at the office of the school at Rapid City, for the building of the said additions and improvements for the School of Mines at Rapid City, Dakota, according to the plans and specifications

aforesaid, which shall be open for inspection of bidders at the office of the school of mines, or at such place in Rapid City, Dakota, as the board may designate.

§ 9. TOTAL COST.] The total cost of said building and improvements shall not exceed twenty-three thousand (23,000) dollars.

§ 10. CONTRACT—HOW AWARDED.] On the day advertised for the opening of said proposals, for erecting and completing the said additions and improvements, the board of trustees shall proceed to award the contract or contracts, reserving the right to reject any or all bids, if in their judgment they are too high, and may again advertise for proposals, or accept such bids as in their judgment may be for the best interests of the institution.

§ 11. HOW BUILT.] The walls of said building shall be constructed of good brick or stone, and said building shall be made as nearly fire proof as practicable.

§ 12. PARTIAL PAYMENTS.] The board of trustees, as the work progresses, shall on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on the additions and improvements at the time, and on such certified statement the Auditor shall issue a warrant on the Territorial Treasurer for a sum not exceeding eighty-five per cent. of the value of the work so certified to have been done, on said additions and improvements, at the time of making such application, including amount of all warrants previously issued in part payment of such work; *Provided*, That no part of the funds herein appropriated, for the construction of said additions or improvements shall be paid, or value of work certified by the trustees, until at least one-fourth of the work has been completed by the contractor or contractors.

§ 13. CONTRACT, WHAT TO PROVIDE.] The contract or contracts aforesaid shall stipulate that all material shall be of good quality, and that the work shall be performed in a good workmanlike manner, and these stipulations shall be enforced.

§ 14. FINAL PAYMENT.] The balance due the contractor or contractors under the contract or contracts shall be paid on the completion of the additions or improvements and their acceptance and approval by the board of trustees.

§ 15. IN CASE OF DIVISION OF TERRITORY.] In case of division of the Territory, that part of the Territory of Dakota in which said School of Mines is located shall, on the division of the Territory, assume and pay all bonds and coupons issued and then existing on account of the construction of the said additions and improvements.

§ 16. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 149.

APPROPRIATION FOR MAINTENANCE SCHOOL OF MINES AT
RAPID CITY.

AN ACT to Provide Funds for the Maintenance of the School of Mines at Rapid City, Dakota, for the Ensuing two Years.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **APPROPRIATION.**] There is hereby appropriated out of any funds in the Territorial Treasury, not otherwise appropriated, for the maintenance of the School of Mines, at Rapid City, Dakota, for the ensuing two years, the following sums or so much as may be necessary to pay the current and contingent expenses:

For teachers, and janitors' salaries, fifteen thousand (15,000) dollars.

Reports on mineral resources and printing, two thousand (2,000) dollars.

Water works, electricity, library, fuel and contingent expenses, three thousand (3,000) dollars.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

SEED LIEN.

CHAPTER 150.

PROVIDING MANNER OF SECURING LIEN ON CROPS FOR SEED
FURNISHED.

AN ACT Creating Liens on the Crops of Persons Buying Seed on Credit, and Providing the Manner of Filing and Foreclosing the Same.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **HOW LIEN MAY BE HAD.**] Any person, copartnership, association or corporation who shall furnish to any person wheat, oats, barley, rye, corn, flax or potatoes, to be sown or planted upon any lands owned, used, occupied or rented by such person, shall

have a lien only upon the crop produced from the kind of seed furnished by such person upon the lands aforesaid, upon filing the notice hereinafter specified, to secure payment for the seed so furnished.

§ 2. PRIORITY OF LIEN.] Such liens shall have priority in the order of the filing thereof, and shall have preference over all other liens and incumbrances upon said crops, created subsequent to the passage and approval of this act, if filed within thirty days after the seed grain is furnished.

§ 3. LIEN TO BE FILED.] Any person, copartnership, association or corporation entitled to a lien under this act shall make an account in writing, stating the quantity of seed furnished in bushels, by kind, and the value thereof, the name of the person to whom furnished, and a description of the land upon which the same has been, or is to be planted or sown, and after making oath to the correctness of the account, shall file the same in the office of the register of deeds of the county where the person to whom such seed is furnished resides, except when such person resides in an unorganized county, and in such case, said statement shall be filed in the county to which said unorganized county is attached for judicial purposes.

§ 4. DUTY OF REGISTER OF DEEDS.] It shall be the duty of the register of deeds to file and enter said statements in the manner required by law for the filing and entry of chattel mortgages, and he shall be entitled to a fee of ten cents therefor. And the filing of said statements in conformity to this act operates as a notice to all subsequent purchasers and incumbrances of said property.

§ 5. WHEN LIEN MAY BE FORECLOSED.] Whenever the condition of the agreement, in pursuance of which the seed was furnished, have [has] been broken, the said lien may be foreclosed by a sale of the property embraced in said lien, upon the notice and in the manner provided by law for the foreclosure of chattel mortgages; *Provided*, This act shall not be so constructed as to prevent the foreclosure of said liens by action.

§ 6. PENALTY FOR FALSE PRETENSES.] Any person who shall obtain wheat, oats, barley, rye, corn, flax seed or potatoes as aforesaid, to be sown or planted, and who shall use the same or any part thereof, without the written consent of the party who furnished seed aforesaid, for any other purpose, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment, in the county jail, not exceeding six months and by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 7. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

SOLDIERS, SAILORS AND MARINES.

PROVIDING FOR THE BURIAL OF SOLDIERS, SAILORS AND MARINES IN CERTAIN CASES.

CHAPTER 151.

AN ACT Concerning the Burial of Soldiers, Sailors or Marines, who Served in Union Army During the War of the Rebellion.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AT EXPENSE OF TERRITORY.] That all honorably discharged soldiers, sailors or marines who served in the army, navy or marine corps of the United States during the war of the rebellion, who shall hereafter die, within this Territory, and whose relatives and friends are unable or unwilling to defray the charges of their funeral, shall be buried at the expense of this Territory; such funeral expenses, including cost of burial lot, shall not in any case, exceed the sum of fifty dollars.

§ 2. INTERMENT.] The interment shall be in this Territory, and shall not be made in any cemetery or plot used exclusively for the burial of the pauper dead.

§ 3. DUTY OF JUDGE OF PROBATE.] Upon notice to the judge of probate of the death of any soldier, sailor or marine within his county, mentioned in section one hereof, it shall be the duty of said judge of probate to appoint a suitable person, whose duty it shall be to carry into effect the provisions of this act, in reference to the burial of such deceased soldiers, sailors or marines, for which service said person so appointed shall receive a fee not to exceed three dollars. It shall also be made the duty of the judge of probate to immediately notify the Secretary of War of the death of any such soldier, sailor or marine, furnishing him with the name, age, date of birth, date of death, designating the company, regiment and name of the organization in which said soldier, sailor or marine served, and request that the said Secretary of War furnish a headstone for such deceased soldier, sailor or marine, under the provisions of an act of Congress, authorizing the Secretary of War to erect headstones over the graves of Union soldiers who have been interred in private, city or village cemeteries, approved February 3, 1879; and when said headstone is so furnished, it shall be the duty of said judge of probate, or other person designated by

him for such purpose, to cause the grave of said soldier, sailor or marine to be marked with such headstone, and the expense of erecting a headstone which may be furnished by the government of the United States, to mark the grave of a soldier, sailor or marine buried in this Territory, shall be paid by the Territory, the expense not to exceed in any case the sum of five dollars.

§ 4. DUTY OF OTHER OFFICERS.] All expenses of this act shall be approved, allowed and certified to in duplicate by the judge of probate, in the county in which said soldier, sailor or marine died, or is buried, such certificates, both original and duplicate to be delivered by the judge of probate to the county clerk or auditor of such county, the original of which, shall be by him forwarded at once to the Auditor of the Territory, the duplicate to remain upon the files of his office. Upon the receipt by the Auditor of the Territory of such certificate, he shall draw his warrant on the Territorial Treasurer in favor of the judge of probate, for the amount specified therein, and it is hereby made the duty of the probate judge to pay the same over to the person or persons entitled thereto.

§ 5. APPROPRIATION.] There is hereby appropriated out of the treasury of the Territory a sum sufficient to carry out the provisions of this act.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, February 7, 1887.

STENOGRAPHERS.

CHAPTER 152.

PROVIDING FOR TRAVELING EXPENSES IN CERTAIN CASES.

AN ACT To Amend Section Five, of Chapter Fifty-two, of the Session Laws of 1879, An Act Authorizing the Appointment of Short Hand Reporters for the District Courts of the Territory.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REPORTER TO ATTEND COURTS.] That section five of chapter fifty-two of the Session Laws of 1879, be amended so as to read as follows:

§ 5. Such reporter shall proceed from county to county, or subdivision, where the district courts are held, when required

thereunto by such district judge, and be in attendance upon such district court, to perform such duties as shall be required of him; and shall receive traveling expenses for each mile actually and necessarily traveled to and returning from such district court, to be paid by the county, five cents.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1887.

SUPREME COURT.

CHAPTER 153.

JUSTICES ALLOWED TRAVELING EXPENSES.

AN ACT To Provide an Allowance to the Justices of the Supreme Court of the Territory of Dakota, to Defray their Traveling Expenses, Etc.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **AMOUNT ALLOWED.**] That the Chief Justice and each Associate Justice of the Supreme Court of the Territory of Dakota shall be allowed and paid the sum of one thousand five hundred dollars annually for the purpose of defraying their traveling and other expenses, made necessary in holding the terms of court under the laws of the Territory, and at places other than those where the district courts exercise the jurisdiction of district and circuit courts of the United States.

§ 2. **TREASURER TO PAY QUARTERLY.**] The Territorial Treasurer shall pay said annual allowances and compensation to each of said Justices in equal payments quarter yearly, on the first days of April, July, October and January of each year, and there is hereby appropriated out of any money in the Treasury not otherwise appropriated, such sum of money as a continuing appropriation, as may be necessary to make the payments required by this act.

§ 3. This act shall take effect and be in force from and after the thirty-first day of March, A. D. 1887.

Approved, March 11, 1887.

SUPREME COURT REPORTS.

CHAPTER 154.

PROVIDING FOR DISTRIBUTION OF THIRD VOLUME OF DAKOTA SUPREME COURT REPORTS.

AN ACT Providing for the Distribution of the Dakota Supreme Court Reports.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. MANNER OF DISTRIBUTION.] That the Librarian of the Territory is hereby instructed to deliver one copy of each volume of the Dakota Supreme Court Reports, published by authority of the Reporter of the Supreme Court, to the following officers and organizations, to-wit: Each Judge of the Supreme Court, the United States Attorney for Dakota, the Attorney General of the Territory, the library of Congress of the United States, the library of the Supreme Court of the United States, the Attorney General of the United States, the Governor of the Territory, the public library of each State and organized Territory that has exchanged or will exchange reports with this Territory, and five copies to the Clerk of the Supreme Court of this Territory for the use of the court when in session, and to deposit ten copies in the library of the Territory, to be retained therein; *Provided*, That any of the above named officers or bodies which have been once supplied with any of the above named volumes need not be supplied with additional copies, and it is made the duty of each Territorial officer above specified to deliver the volumes in his possession to his successor in office, upon the expiration of his term of office.

§ 2. REGISTERS OF DEEDS TO BE SUPPLIED.] That the Secretary of the Territory is hereby instructed, to furnish to the register of deeds of each county in this Territory now or hereafter organized, three copies of each volume of the Supreme Court Reports of this Territory.

§ 3. DUTY OF REGISTER OF DEEDS.] It is hereby made the duty of the said register of deeds, upon receipt of the volumes above specified, to conspicuously mark upon the outside of the cover thereof with ink, the words, "Property of county of....(inserting the name of the county of which he is an officer in the space occupied by the blank) and when so marked to deliver one

copy of each volume into the custody of the clerk of the district court, the judge of the probate court, and the district attorney of the county, and it is made the duty of such officer receiving such volumes, to deliver the same over to his successor in office at the expiration of his term of office.

§ 4. SECRETARY, MAY PURCHASE—WHEN.] Should the full compliance with the requirements of sections one and two of this act exhaust the supply of the volumes herein specified now in the possession of the Secretary or Librarian of the Territory, and of volumes for the purchase of which provision has heretofore been made, the Secretary is hereby authorized and directed to purchase a sufficient number of copies of the several volumes heretofore published or to be published, to comply with the provisions of this act; *Provided*, That the same can be purchased at a price not exceeding that provided to be paid per volume by the act approved, February 19, 1885.

§ 5. AUDITOR TO DRAW WARRANT.] It is hereby made the duty of the Auditor, upon receipt of an account for reports so furnished duly certified as correct by the Secretary or Librarian of the Territory, to draw his warrants on the Treasurer for the amounts thereof, and there is hereby appropriated out of any money in the Territorial Treasury an amount sufficient to pay the same.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

TOWNSHIP GOVERNMENT.

CHAPTER 155.

RELATING TO TOWNSHIP BOARDS OF SUPERVISORS.

AN ACT To Provide for Meetings of the Township Boards of Supervisors, and Defining the Duties of the Same.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REGULAR MEETINGS.] That the township boards of supervisors shall hold regular meetings as follows: They shall meet on the last Tuesday of February and the fourth Monday of

June, as now prescribed by law, and in addition thereto they shall meet on the last Tuesday of March and the last Tuesday of October of each year.

§ 2. WHERE HELD.] Said meetings shall be held at the office of the town clerk, or at the usual place for holding the annual town meeting if there be one. They shall meet not later than ten o'clock A. M., and shall not adjourn before four o'clock P. M.

§ 3. BUSINESS TO BE TRANSACTED.] At their meetings in February and June they shall perform all the duties now required of them by law to be transacted at said meetings, and any other business that may legally come before them.

§ 4. APPROVE BONDS.] At their meeting in March they shall approve the bonds of township officers, (and said officers shall immediately enter upon the duties of their office) and shall assess the highway labor and road tax for the ensuing year, and perform all the duties required of them in subdivision four, subchapter two, of chapter 112, of the General Laws of 1883.

§ 5. ACCOUNTS, WHEN AUDITED.] At their meeting in October, they shall audit accounts, settle with the road overseers and transact any other business, that may come before them.

§ 6. ADJOURNED AND SPECIAL MEETINGS.] They may adjourn from time to time, and in cases of emergency may hold special meetings on call of the clerk on three days' notice.

§ 7. BUSINESS WITH BOARD—WHEN TO APPEAR.] It shall be the duty of all persons having business to transact with the board of supervisors of any town to appear before said board at any regular meeting, or file such business with the clerk to be laid before the board by him at their next meeting.

§ 8. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 156.

TOWNSHIP ASSESSOR—MANNER OF FILLING VACANCY.

AN ACT To Amend Section Forty-nine, of Sub-chapter One of Chapter 112, of the General Laws of 1883, Entitled "An Act to Provide for the Organization of Civil Townships and the Government of the Same."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHEN COUNTY CLERK TO APPOINT ASSESSOR.] Section 149, of sub-chapter one, of chapter 112 of the General Laws of 1883 is hereby amended to read as follows: "When any township assessor is elected, and fails or refuses to qualify, to discharge the duties of his office, or if the electors of said township fail, from any reason whatever to elect an assessor, and the town board of said township fails or refuses to appoint an assessor for said township, on or before the fifteenth day of April of that year, for which said assessor is to serve, then it shall be the duty of the county Auditor or county clerk to appoint an assessor for said township, who shall be a resident of the township of which he is to serve as assessor."

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, Dak., March 7, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 157.

DUPLICATE STATEMENT REQUIRED OF TOWNSHIP TREASURERS.

AN ACT To Amend Section Seventy-four of Sub-chapter No. One, of Chapter One Hundred and Twelve of the General Laws of 1883, Entitled "Township Government."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TOWN TREASURER'S STATEMENT—DUPLICATE TO BE FILED.] Section seventy-four, of sub-chapter No. 1 of chapter 112 of the laws of the Fifteenth Legislative assembly, shall be and the same is hereby amended by adding to said section the following words, to-wit: "and a duplicate of said statement shall at the same time be filed by the township treasurer, with the county clerk or auditor, as the case may be, for his respective county."

§ 2. This act shall be in force from and after its passage and approval.

Approved, February 19, 1887.

CHAPTER 158.

DELINQUENT ROAD TAXES—DUTIES OF TOWN CLERK AND ROAD SUPERVISOR.

AN ACT To Amend Sections Twenty-nine and Thirty-one, of Sub-chapter two, of Chapter 112, of the Session Laws of 1883.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ROAD OVERSEER TO RETURN TAX LIST.] Section twenty-nine, of sub-chapter two, of chapter 112, of the Session Laws of 1883, is hereby amended by striking out the words "first day of October," where they occur in said section, and inserting in lieu thereof the words "fifteenth day of September."

§ 2. TOWN CLERK TO MAKE OUT DELINQUENT LIST.] Section thirty-one, of sub-chapter two, of chapter 112, of the Session Laws of 1883, is hereby amended by striking out the word "No-

vember" where it occurs in said section, and inserting in lieu thereof the word "October."

§ 3. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, February 25, 1887.

CHAPTER 159.

AMENDMENT.

AN ACT To Amend an Act, Entitled "An Act to Provide for the Organization of Civil Townships and the Government of the Same."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **WHAT OFFICERS TO BE CHOSEN.]** That section twelve (12) of chapter one hundred and twelve (112) of the Session Laws of the Fifteenth Legislative Assembly, approved March 9, 1883, be amended by adding at the end of said section the following words: "*Provided, however,* That this section shall not be construed as abolishing the offices of county justices of the peace and county constables, as provided for in section fifteen of chapter twenty-one of the Political Code of the Territory of Dakota."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 7, 1887.

TERRITORIAL OFFICES.

CHAPTER 160.

APPROPRIATION FOR MAINTENANCE OF PUBLIC OFFICES.

AN ACT for Maintenance of the Public Offices of the Territory.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AUDITOR TO ALLOW CLAIMS—APPROPRIATION.] That the Territorial Auditor be and is hereby authorized and empowered, to hear and determine any accounts or claims for services or supplies furnished, prior to the next session of the Legislative Assembly, for heating and lighting the public offices of the Territory, for care of the same; and for expenses generally which may be necessary to their maintenance, and for necessary repairs upon the Capitol building; and he is also empowered to draw his warrants for such sums as he shall deem to be due on such accounts or claims, upon approval thereof by the Governor, not exceeding in the aggregate six thousand dollars; and the Territorial Treasurer is hereby directed to pay such warrants, from the general funds of the Territory.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

TERRITORIAL TREASURER.

CHAPTER 161.

SALARY AND BOND OF TERRITORIAL TREASURER.

AN ACT To Amend Chapter 103, of the Session Laws of 1883, Relating to Territorial Treasurer, Entitled "An Act to Amend Section Three, of Chapter Thirty-nine, of the Political Code, and Section One, of Chapter 183, of the Session Laws of Dakota Territory of 1881."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **SALARY AND BOND OF TERRITORIAL TREASURER.**] That section three of chapter 103, of the Session Laws of 1883, entitled "An act to amend section three, of chapter thirty-nine, of the Political Code, and section one, of chapter 133, of the Session Laws of Dakota Territory of 1881," be and the same is hereby amended to read as follows: "That the salary of the Territorial Treasurer shall be two thousand dollars per annum, payable quarterly; that he give a bond to the Territory of Dakota of two hundred and fifty thousand dollars, with good and sufficient sureties, to be approved by the Governor."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

1887—23

TRUSTEES OF PUBLIC PROPERTY.

CHAPTER 162.

CREATION OF NEW CAPITAL COMMISSION.

AN ACT To Create a Board of Trustees of Public Property, to Provide for the Appointment of a Commission to Appraise and Sell Certain Real Property of the Territory, to pay Outstanding Warrants and to Discharge the Commission Created by Chapter 104, of the General Laws of 1883.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **BOARD OF TRUSTEES—OF WHOM COMPOSED.**] That the Governor of the Territory, together with the Secretary and Auditor of the same, be and are hereby constituted a board of trustees who shall have charge and control of the Capitol and the park and public grounds connected therewith.

§ 2. **BOARD TO SUBMIT ESTIMATES BIENNIALLY.**] Said board shall biennially, at the opening of the Legislative Assembly, report to said Assembly an estimate of the appropriation in their judgment necessary to defray the expense of keeping the Capitol building in repair, and for fuel and other incidental expenses, to keep and maintain the Territorial offices therein for the next two years.

§ 3. **GOVERNOR TO APPOINT COMMISSIONERS.**] The Governor, shall appoint three citizens of the Territory commissioners, who shall perform the duties hereinafter specified.

§ 4. **COMMISSIONERS TO GIVE BONDS—DUTIES.**] Said commissioners shall before entering upon their duties, enter into bonds in the sum of ten thousand (10,000) dollars each, with good and sufficient sureties, to be approved by one of the justices of the supreme court, payable to the Territory of Dakota, and conditioned for the faithful performance of their duties under this act, to fully account for all moneys that may come into their hands as such commissioners, and they shall also take and subscribe an oath to fully, faithfully and impartially carry out the provisions of this act, which oath shall be endorsed upon their bond, and the same shall be filed in the office of the Territorial Treasurer. If any of the commissioners fail to qualify, or should a vacancy occur at any time, the Governor shall fill the vacancy by appointment, and the person so appointed shall qualify in the manner provided in this act.

§ 5. **MAY REAPPRAISE CERTAIN REAL PROPERTY.**] Said commissioners shall, if they deem the appraisement heretofore made too high, appraise all the real estate which was donated to the Territory under the provisions of chapter 104, of the General Laws of 1883 (except so much thereof as has been sold), and fix a minimum price on each lot or tract of the said land, and it shall be their duty to file a copy of said appraisement with the Secretary of the Territory as soon as the same is completed.

§ 6. **MAY ADVERTISE LOTS FOR SALE.**] Said board of trustees shall, whenever the Governor shall deem it advisable so to do, advertise said lots for sale for at least thirty days, and in such daily newspapers as they may select, not less than five in number, at least three of which shall be published without the Territory. Said notice shall contain a description of the property to be sold and shall state the time and place of sale. On the day named in the advertisement said board of trustees shall proceed to sell to the highest bidder for cash, at a price not less than the appraised value, all said property, so long as may be necessary, not exceeding five days, after which time the board of trustees may sell at private or public sale, as they may deem expedient, until all the property aforesaid is sold.

§ 7. **DEEDS—HOW GIVEN.**] Every purchaser of lots shall deposit the purchase money therefor, with the commissioners, who shall give a receipt for said money, which receipt shall specify the amount of money and the number of the lot and block for which the money was paid, and which receipt upon its presentation to the Secretary of the Territory, shall entitle the person named therein to a deed in fee simple absolute, from the Territory of Dakota, to the real estate named in the receipt, which conveyance shall be executed, for and in behalf of the Territory, by the Governor, and attested by the Secretary of the Territory, under the seal of said Territory; and said Secretary shall file and safely keep all receipts thus presented.

§ 8. **MONIES TO BE PLACED TO CREDIT OF BUILDING FUND.**] All moneys received by the commissioners for the sale of lots, shall be forthwith deposited by them in the Territorial Treasury, and said money shall be placed to the credit of the Territorial building fund.

§ 9. **EXPENSES OF COMMISSIONERS—HOW PAID.**] All the expenses incurred by the commissioners for advertising, stationery and other necessary expenses shall be paid by the Auditor of the Territory by his warrant upon the Territorial Treasurer, upon the certificate of the said commissioners; and the commissioners shall be paid for their services the sum of five dollars (\$5.00) each for each and every day actually employed, by the warrant of the Auditor of the Territory upon the Territorial Treasurer.

§ 10. **OLD CAPITAL COMMISSION DISCHARGED.**] The commission created by said chapter 104 is hereby discharged, and said commission is directed to turn over to the commission created by

this act within twenty days after its passage and approval all books, papers, and other property of the Territory in their possession.

§ 11. All acts and parts of acts in any manner inconsistent with this act are hereby repealed.

§ 12. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

UNIVERSITY.

CHAPTER 163.

VERMILLION—AUTHORIZING ISSUE OF BONDS FOR PERMANENT IMPROVEMENTS, UNIVERSITY OF DAKOTA.

AN ACT Providing Funds for the Construction of a Dormitory and Wing of Main Building of the University of Dakota, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BONDS.] That for the purpose of providing funds to pay for the construction of a dormitory and of the east wing of the main building of the University of Dakota, and for other purposes, the Territorial Treasurer is hereby authorized and empowered, and it is hereby made his duty, to prepare for issue thirty thousand (30,000) dollars of Territorial bonds, running for a term of twenty (20) years and bearing interest not to exceed five (5) per cent. per annum, payable semi-annually, on the first day of July and January of each year. Such bonds shall be issued in denominations of five hundred (500) dollars, and the interest thereon shall be payable at some place in New York city, to be specified in said bonds.

§ 2. BONDS—HOW EXECUTED.] Such bonds shall be executed for the Territory and under the seal thereof, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 3. PROPOSALS.] It shall be the duty of the Territorial Treasurer to receive sealed proposals for the purchase of said bonds after giving notice for thirty (30) days in

two (2) newspapers of general circulation, one (1) of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest and best bidder for cash, and at not less than their par value.

§ 4. BOND TAX—SINKING FUND TAX—INTEREST.] To secure the prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time other taxes are levied, and collected in the same manner as other Territorial taxes are collected, such sum as shall be sufficient to pay the interest and exchange thereon; and after ten (10) years from the first day of May 1887, in addition thereto, a sinking fund tax shall be levied annually, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer to pay promptly, on the first day of July and January of each year, at the place where payable, such interest as shall then be due and to purchase said bonds at their par value and retire and cancel the same with the sinking fund tax as fast as the same shall be received, and no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 5. PAYMENT OF PRINCIPAL AND INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided to pay either principal or interest upon such bonds, when due, he shall pay such interest or principal out of any other unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 6. FUNDS REPLACED.] All moneys belonging to the general Territorial fund, applied by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 7. SPECIFIC APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury all the funds realized from the sale of the bonds provided for in this act, to be expended as follows:

1. For material and construction of the east wing of the University of Dakota, fifteen thousand (15,000) dollars.

2. For material and construction of young men's dormitory, ten thousand (10,000) dollars.

3. For heating, plumbing and sewerage for wing and dormitory, five thousand (5,000) dollars.

And there is also appropriated for each of the above stated purposes, the proportionate amount of all premiums, received on the sale of such bonds.

§ 8. PLANS AND SPECIFICATIONS—ADVERTISING FOR PROPOSALS.] The board of directors of the University of Dakota, shall

on or before May 1st, 1887, prepare or cause to be prepared plans and specifications for erecting said wing, and the young men's dormitory, and after adoption and approval thereof by said board and the Governor of the Territory, said board of directors shall cause said plans and specifications to be filed with their secretary, and it shall be the duty of said board within twenty (20) days thereafter to give public notice by publication for thirty (30) days in two (2) newspapers published and of general circulation in the Territory of Dakota, and in two (2) newspapers published in other states, that on the day and hour specified in such notice, they will receive sealed proposals for the erection of such buildings at the office of the secretary of said board, according to the plans and specifications aforesaid, which shall be open for the inspection of bidders at the office of the secretary of the board, or at such other place as the board may designate.

§ 9. BIDS—AWARDING CONTRACTS.] On the day advertised for the opening of said proposals for the erection of said buildings provided for in this act, the board of directors shall proceed to award the contract or contracts, reserving the right to reject any or all bids if in their judgment they are too high, and may again advertise for proposals, or accept such bids as in their judgment may be for the best interests of the institution.

§ 10. WALLS.] The walls of such buildings shall be constructed of good brick or stone and the buildings shall be made as nearly fire proof as practicable.

§ 11. PAYMENTS—HOW MADE.] The board of directors as the work progresses shall on application of the contractors, certify to the Territorial Auditor the value of the work done on the said buildings at the time, and on such certified statement the Auditor shall issue a warrant on the Territorial Treasurer, for a sum not exceeding seventy-five (75) per cent. of the value of the work as certified to have been done on said buildings at the time of making such application, including the amount of all warrants previously issued in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said buildings shall be paid or value of the work certified by the board until at least one-fourth ($\frac{1}{4}$) of the work has been completed by the contractor.

§ 12. CONTRACT—WHAT TO STIPULATE.] The contract or contracts aforesaid shall stipulate that all material shall be of good quality, and that the work shall be performed in a good workman-like manner, and these stipulations shall be enforced.

§ 13. FINAL PAYMENT.] The balance due under any contract or contracts shall be paid on the completion of the work and its acceptance and approval by the board of directors.

§ 14. LIABILITY UPON DIVISION OF TERRITORY.] In case of the division of the Territory, that part of the Territory of Dakota in which said University is located shall, on the division of the

Territory, assume and pay all bonds and coupons outstanding on account of the construction of said buildings.

§ 15. This act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1887.

CHAPTER 164.

VERMILLION—APPROPRIATION FOR MAINTENANCE OF UNIVERSITY AT VERMILLION.

AN ACT To Provide Funds for the Maintenance of the University of Dakota, at Vermillion.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or as much as may be necessary, out of any moneys in the Territorial Treasury not otherwise appropriated, for the maintenance of the University of Dakota, at Vermillion, Dakota Territory, for the ensuing two years:

Apparatus, three thousand dollars.

Library, one thousand dollars.

Heating and furnishing east wing of University, one thousand dollars.

Lights and fuel, five thousand dollars.

Janitor and engineer, twelve hundred dollars.

Incidental expenses, one thousand dollars.

Secretary's salary, one thousand dollars.

Salary of president, five thousand dollars.

Salaries of professors and teachers, eighteen thousand dollars.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 165.

**VERMILLION—AUTHORIZING ISSUE OF BONDS FOR EQUIPMENT
AND IMPROVING GROUNDS OF UNIVERSITY AT VERMILLION.**

**AN ACT To Provide Funds for the Furnishing, Equipment and Improving the
Grounds of the University of Dakota at Vermillion and for Other Pur-
poses.**

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **APPROPRIATION.**] That there is hereby appropriated the following sums of money, or as much thereof as may be necessary, out of the Territorial Treasury, not otherwise appropriated, viz:

For furnishing the east wing of the University, one thousand (1,000) dollars.

For improving University grounds, two thousand (2,000) dol-
lars.

For heating apparatus in dormitories, four thousand (4,000) dollars.

§ 2. This act shall take effect and be in force from and after its
passage and approval.

Approved, March 11, 1887.

CHAPTER 166.

**GRAND FORKS—AUTHORIZING ISSUE OF BONDS FOR DORMITORY
FOR UNIVERSITY OF NORTH DAKOTA.**

**AN ACT To Provide Funds for the Construction and Furnishing of a Dormi-
tory for the University of North Dakota at Grand Forks, Dakota, and for
Other Purposes.**

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **BONDS.**] That for the purpose of providing funds to pay the cost of erecting and furnishing of a dormitory for the University of North Dakota at Grand Forks, Dakota, the Territorial Treasurer is hereby authorized and empowered, and it is made his duty to prepare for issue twenty thousand

(20,000) dollars of Territorial bonds, running for a term of ten years and bearing interest at the rate of four (4) per cent. per annum, with coupons attached, payable semi-annually on the first days of July and January of each year. Such bonds shall be executed under the seal of the Territory, shall be signed by the Governor, and shall be attested by the Secretary and negotiated by the Treasurer.

§ 2. **SALE OF BONDS.**] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon the request of the board of regents of said University he shall give public notice for thirty (30) days in two (2) newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash, at not less than their par value.

§ 3. **INTEREST.**] For the purpose of prompt payment of principal and interest, of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied, and collected in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and the exchange thereon, and after six (6) years from the first (1st) day of May, 1887, in addition thereto, a sinking fund tax shall be annually levied sufficient to retire and pay said bonds at their maturity. And it shall be the duty of the Territorial Treasurer to pay promptly on the first days of January and July of each year, such interest as shall be due, and to purchase said bonds at not more than their par value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. And no tax or fund provided for the payment of such bonds, either principal or interest shall at any time be used for any other purpose.

§ 4. **INTEREST PROVIDED FOR.**] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided to pay either principal or interest, upon such bonds, when due, he shall pay such interest or principal out of any other unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 5. **FUNDS TO BE REPLACED.**] All moneys belonging to the general Territorial fund applied by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. **PLANS AND SPECIFICATIONS.**] The board of regents of the North Dakota University at Grand Forks, Dakota, shall, immediately after the passage and approval of this act, prepare or

cause to be prepared plans and specifications for building the dormitory enumerated in section one (1) of this act, and after the same shall have been approved by them and the Governor of the Territory, the said board of regents shall cause said plans and specifications to be filed with their secretary, and it shall be the duty of said board within twenty (20) days thereafter to give public notice, which notice shall be inserted for thirty (30) days in two (2) newspapers published in the Territory, and of general circulation therein, and in two (2) newspapers published in other states, and that on a day specified in such notice they will receive proposals at the office of the secretary at Grand Forks (and elsewhere, as they may designate) for the building of said dormitory according to the plans and specifications aforesaid, which shall be open for the inspection of bidders at the office of the secretary at Grand Forks, and at such place or places as the board may designate.

§ 7. TOTAL COST.] The total cost of building said dormitory including the furnishing thereof, shall not exceed twenty thousand (20,000) dollars.

§ 8. CONTRACT.] On the day advertised for the opening of said proposals for building said dormitory and furnishing the same, the board of regents shall proceed to award the contract or contracts, reserving the right to reject any or all bids, if in their judgment they are too high, and may again advertise for proposals, or to accept such bids as in their judgment may be for the best interests of the institution.

§ 9. MATERIAL.] The walls for said dormitory shall be constructed of good brick or stone, and said building shall be made as nearly fire proof as practicable.

§ 10. PARTIAL PAYMENTS.] The board of regents, as the work progresses, shall on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on said dormitory, and on such certified statement the auditor shall issue a warrant on the Territorial Treasurer for a sum not exceeding eighty (80) per cent. of the value of the work so certified to have been done at the time of making such application, including amount of all warrants previously issued in part payment of such work; *Provided*, That no part of the funds herein appropriated for the construction of said work shall be paid, or the value of the work certified by the regents until at least one-third ($\frac{1}{3}$) of the work has been completed by the contractor or contractors.

§ 11. MATERIAL TO BE OF GOOD QUALITY.] The contract or contracts aforesaid shall stipulate, that all material shall be of good quality, and that the work shall be performed in a good workman-like manner and these stipulations shall be enforced.

§ 12. FINAL PAYMENT.] The balance due the contractor or contractors, under the contract or contracts, shall be paid on the completion of the work and its acceptance and approval by the board of regents.

§ 13. APPROPRIATION.] That there is hereby appropriated for the performance of the work named in section one (1) of this act, all sums realized from the sale of the bonds hereinbefore specified, and the same and all thereof shall be at the disposal of the board of regents for the purpose hereinbefore named.

§ 14. IN CASE OF DIVISION.] In case of the division of the Territory, that part of the Territory of Dakota, in which said University of North Dakota is located, shall, on the division of the Territory, assume and pay all bonds and coupons issued, and then existing, on account of the construction of the said dormitory.

§ 15. All acts or parts of acts conflicting herewith are hereby repealed.

§ 16. This act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1887.

CHAPTER 167.

GRAND FORKS — APPROPRIATION FOR MAINTENANCE, UNIVERSITY OF NORTH DAKOTA.

AN ACT Appropriating Funds for the Maintenance of the University of North Dakota, at Grand Forks, Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the Territorial treasury not otherwise appropriated the following sums of money, or so much thereof as may be necessary, for the purpose of paying the current and contingent expenses of the University of North Dakota for the ensuing two years:

For salaries of president, professors, teachers and assistants, \$25,000.

For salary of secretary, who in addition to performing the duties of secretary, shall be the superintendent of the buildings and grounds of the University, and discharge such other duties as may from time to time be prescribed by the board of regents, \$2,000.

For fuel and lights, \$4,000.

For engineers, firemen and janitors, \$2,400.

For incidental expenses, \$2,000.

For natural science, chemical and physical apparatus, \$3,000.

For museum, \$2,000.

For water supply, \$600.

For support of medical department, \$1,000.

For library fund, \$2,000.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 168.

GRAND FORKS—RELATING TO BOARD OF REGENTS, UNIVERSITY OF NORTH DAKOTA.

AN ACT Entitled "An Act Amending Chapter 40 of the Special Laws of the Fifteenth General Assembly."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BOARD OF REGENTS INCREASED TO SIX.] That section two of chapter forty of the Special Laws of the Fifteenth General Assembly be, and the same is hereby amended, by striking out the word five (5) in the second line of said section, and inserting in lieu thereof the word six (6), and after the word "members" in said line, insert the words "five of whom."

§ 2. QUORUM.] That section four of said chapter forty be, and the same is hereby amended, by inserting the words "four (4) members," in the sixth line of said section, between the words "board" and "shall," where they occur in said line.

§ 3. ADDITIONAL POWERS.] That section nine of said chapter forty, be and the same is hereby amended, by inserting at the end of the section the following: "and the board of regents are hereby authorized to establish such professional and other colleges or departments when in their judgment, they may be deemed necessary and proper; *Provided*, That no money shall be expended by the board of regents in establishing and organizing any of the additional colleges or departments provided for in this section, until an appropriation therefor shall have first been made."

COUNCIL CHAMBER,

BISMARCK, Dak., March 11, 1887.

I, George A. Mathews, President of the Council, hereby certify, that on the third day of March 1887 the attached act of the Legislative Assembly of this Territory, "An act entitled an act amending chapter forty of the acts of the Fifteenth General Assembly," was returned to the Council, the body in which it originated, without the approval of his Excellency, Governor Louis K. Church, and with his objections thereto in writing. The objections were entered at large upon the Journal of the Council, and the question stated, "Shall this act be passed, the objections of the Governor to the contrary notwithstanding?" The roll of the Council was called, and the act did pass, more than two-thirds of the members of the Council present and voting, voting in the affirmative.

Attest: T. A. KINGSBURY,
Chief Clerk.

G. A. MATHEWS,
President of the Council.

HALL OF THE HOUSE OF REPRESENTATIVES,

BISMARCK, D. T., March 11, 1887.

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was received from the Council on the 4th day of March, 1887; that the objections of the Governor were read at length, and the question stated, "Shall this act be passed the

objection of the Governor to the contrary notwithstanding?" The roll of members was called and the act did pass, more than two-thirds of the members of the House of Representatives present and voting, voting in the affirmative.

Attest: W. G. EAKINS,
Chief Clerk.

GEORGE G. CROSS,
Speaker of the House.

USURY.

CHAPTER 169.

AN ACT To Repeal Section Four Hundred and Twenty-seven (427) of Chapter Thirty-seven (37) of the Penal Code.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **REPEALED.**] That section four hundred and twenty-seven (427) of chapter thirty-seven (37) of the Penal Code of the Territory of Dakota be and the same is hereby repealed.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 16, 1887.

VICIOUS DOGS.

CHAPTER 170.

LIABILITY OF OWNER OR KEEPER.

AN ACT To Amend Section One, of Chapter 134, of the Session Laws of 1885, Entitled "Liability for Damages Occasioned by Vicious Dogs."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **OWNER OF DOG LIABLE.**] That section one, of an act defining the liability of damages occasioned by vicious dogs, approved March 13, 1885, be and the same is hereby amended to read as follows:

§ 1. That any person keeping, owning or harboring a dog that shall chase, worry or kill horses, mules, cattle or sheep, shall be

liable for all damages committed by such dog upon any horses, mules, cattle or sheep to the owner or owners of such horses, mules, cattle or sheep, and shall not be entitled to any benefit from the laws exempting property from execution, but all property shall be subject to execution and judgment for such damages and costs.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

LAWS OF LOCAL APPLICATION.

CITIZENSHIP.

CHAPTER 171.

POLITICAL DISABILITIES OF HEINRICH MUCHOW REMOVED.

AN ACT To Remove the Disabilities of Heinrich Muchow and Restore him to Citizenship.

WHEREAS, Heinrich Muchow was on the 31st day of December, 1880, sentenced to a term of four years imprisonment, in the penitentiary at Sioux Falls, for manslaughter; now therefore,

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CITIZENSHIP RESTORED.] The political disability of said Heinrich Muchow are hereby removed, and he is restored to full citizenship.

Approved, March 11, 1887.

CORPORATIONS.

CHAPTER 172.

RELATING TO BUILDING AND LOAN ASSOCIATIONS.

AN ACT To Ratify acts of Loan Companies and Building and Loan Associations Heretofore Incorporated Under the Laws of This Territory, and to Provide for Their Further Existence Without Re-incorporation.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ENTITLED TO CERTAIN PRIVILEGES, WHEN.] That any company heretofore incorporated under any general law of this Territory, or by virtue of any special charter heretofore granted by the Legislature thereof, incorporating any company for the purpose of doing a banking, loan or other business provided for in chapter three (3) of title two of the Civil Code of this Territory, relative to private corporations; or any building and loan association heretofore incorporated, and having accepted the provisions of chapter thirty-four (34) of the General Laws of Dakota, passed at the Legislative session of 1885, as therein provided, shall be entitled to all the privileges, immunities, franchises and powers mentioned in said chapter three (3) of title two, of the Civil Code of this Territory relative to private corporations, and the privileges, immunities and powers recited in said chapter thirty-four (34) of the General Laws of the Territory of Dakota, passed at the Legislative session of 1885, upon filing with the Secretary of the Territory a certificate to be by him recorded, which certificate shall be under the duly authenticated seal of such corporation, and shall set forth such corporation's acceptance of the provisions of and act entitled, "An act to amend section 384 of chapter three of the Civil Code," approved February 7, 1887.

§ 2. RE-INCORPORATION UNNECESSARY, WHEN.] Upon the acceptance and approval of said certificate, by the Secretary of the Territory, such corporation shall thenceforth be entitled to all the privileges, immunities, franchises and powers conferred by said act to amend section 384 of chapter three of the Civil Code, approved February 7, 1887, in the same manner as if incorporated under the provisions thereof.

§ 3. PREVIOUS ACTS RATIFIED.] And it is further provided, that all the acts of such incorporations previously done under and

by virtue of their then existing charters shall be and are hereby ratified and made legal.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

COUNTIES.

CHAPTER 173.

PROVIDING FOR RE-LOCATION OF COUNTY SEATS IN CERTAIN CASES.

AN ACT Entitled "An Act to Provide for the Re-location of County Seats in Counties Where County Seats Have Been Located by a Vote Less Than a Majority of all the Electors Voting Thereon.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ELECTION—WHEN.] That in all counties in this Territory, having a population not less than twelve thousand, as shown by the census of 1885, and having an area of not less than forty-eight congressional townships, and in which the present county seat thereof has been heretofore located under the provisions of section six, of chapter twenty-one of the Political Code, by a vote less than a majority of all the votes cast at the election held under the provisions of said section six of chapter twenty-one of the Political Code, there shall be held a special election of the duly qualified voters of such counties, on the twelfth day of July, A. D. 1887, at which election the question of the re-location of the county seat of such counties shall be voted upon; *Provided*, That such election shall not be held in any county, unless there shall be presented to the judge of the district court, of the district in which such county is situated, or in his absence from such district or his inability to act, to the Chief Justice of said Territory, a petition signed by at least one-third in number of the electors of said county, as shown by the vote cast at the last general election praying said judge to issue an order directing the holding of said election as provided in this act. If said judge shall find that said

petition is signed by one-third of the electors of said county, as above provided, he shall issue an order directing said election to be held in accordance with the provisions of this act.

§ 2. REGISTER OF DEEDS TO GIVE NOTICE OF ELECTION.] It shall be the duty of the register of deeds in each of said counties, upon being duly served with a copy of the order made by the judge, as provided in section one of this act, to cause a duly certified copy of this act to be published in at least one of such papers as have been designated by the board of county commissioners, as the official paper of such counties, for at least six consecutive weeks immediately preceding the date of such election, and no other or further notice of said election shall be required.

§ 3. POLLING PLACES—JUDGES.] The polling places at such elections shall be the same as those designated for the general election of 1886, and the judges and clerks of such election shall be the same as at the general election of 1886; *Provided*, That if any of the said judges or clerks shall be absent, or for any reason shall fail to act at said special elections their places shall be filled in the manner provided by the laws governing general elections in this Territory.

§ 4. BALLOTS.] The ballots for such elections shall be printed or written, or partly printed and partly written, and substantially as follows: "For county seat, the city (or town) of," and by such ballot the elector shall designate the city or town for which he desires to cast his vote for county seat.

§ 5. CANVASS OF VOTE.] The vote cast at said special elections shall be canvassed, certified and returned, in the same manner as at general elections, and the county commissioners shall, within twenty days after said elections, meet and open the returns and declare and enter upon their records the result.

§ 6. RESULT.] The city or town receiving the highest number of votes, such number being not less than a majority of all the votes cast at the said election, shall be the county seat.

§ 7. QUESTION AGAIN SUBMITTED—WHEN.] If upon a canvass of the votes cast at said election no city or town shall have received a majority of all the votes cast, the question of a relocation of the county seat shall be again submitted to the qualified voters of such counties at the annual election in 1887, and it shall be the duty of the register of deeds of such counties to cause this act to be again published in the same manner and with like effect as provided in section two of this act; *Provided, however*, That at said annual election the electors of such counties shall designate by their ballots as herein provided, their choice for county seat between the two places receiving the highest number of votes at the special election herein provided for, and no ballots cast for any other city or town shall be considered or counted, but shall be deemed void and of no effect, and the city or town receiving the highest number of votes at said annual election shall be the

county seat. The ballots cast at said annual election shall be canvassed, certified and returned and the result declared in the manner provided in section five of this act.

§ 8. **REMOVAL OF COUNTY RECORDS.**] It shall be the duty of the several county officers, whose offices are required by law to be kept at the county seat, to remove their respective offices, files, records, office fixtures, furniture and all public property pertaining to their respective offices, to the county seat designated by the electors, within sixty days after such county seat shall have been designated by the electors under the provisions of this act.

§ 9. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, Dak., March 11, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 174.

AMENDATORY OF CHAPTER 173, SESSION LAWS OF 1887.

AN ACT To Amend an Act, Entitled "An Act to Provide for the Relocation of County Seats in Counties Where County Seats Have Been Located by a Vote Less Than a Majority of all the Electors Voting Thereon," Which Became a law March 11, 1887.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **AMENDMENT.**] That section one of an act of the Legislative Assembly of this Territory, which became a law March 11, 1887, entitled "An act to provide for the relocation of county seats in counties where county seats have been located by a vote less than a majority of all the electors voting thereon," is hereby amended by striking out the following words: "Located under the provisions of section six, of chapter twenty-one, of the Political Code, by a vote less than," and insert in lieu thereof the following words: "temporarily located under the provisions of section four, of chapter twenty-one, of the Political Code, and remained the county seat under the provisions of section six, of chapter twenty-one, of the Political Code, by reason of the fact that no place received" and that amended as herein provided, section one of an act of the Legislative Assembly of this Territory, which became a law March 11, 1887, entitled "An act to provide for the relocation of county seats, where county seats have been located by a vote

less than a majority of all the electors voting thereon," as amended, shall read as follows:

§ 1. That in all counties in this Territory, having a population not less than twelve thousand, as shown by the census of 1885, and having an area of not less than forty-eight congressional townships, and in which the present county seat thereof has been heretofore temporarily located under the provisions of section four of chapter twenty-one of the Political Code, and remained the county seat under the provisions of section six of chapter twenty-one of the Political Code, by reason of the fact that no place received a majority of all the votes cast at the election, held under the provisions of said section six of chapter twenty-one of the Political Code, there shall be held a special election of the duly qualified voters of such counties, on the 12th day of July, A. D. 1887, at which election the question of the relocation of the county seat of such counties shall be voted upon; *Provided*, That such election shall not be held in any county, unless there shall be presented to the judge of the district court of the district in which such county is situated, or in his absence from such district, or his inability to act, to the Chief Justice of said Territory, a petition signed by at least one-third in number of the electors of said county, as shown by the vote cast at the last general election, praying said judge to issue an order directing the holding of said election, as provided in this act. If said judge shall find that said petition is signed by one-third of the electors of said county, as above provided, he shall issue an order directing said election to be held in accordance with the provisions of this act.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 175.

STANLEY, STERLING AND NOWLIN COUNTIES ATTACHED TO COUNTY OF HUGHES FOR JUDICIAL PURPOSES.

AN ACT To Attach the Counties of Stanley, Sterling and Nowlin to the County of Hughes for Judicial Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **FOR JUDICIAL PURPOSES.]** That the counties of Stanley, Sterling and Nowlin, in the Territory of Dakota, be and the same

are hereby attached to the county of Hughes, in the Territory of Dakota, for judicial purposes.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, January 26, 1887.

CHAPTER 176.

BARNES AND GRIGGS COUNTIES—SPECIAL FUNDING ACT REPEALED.

AN ACT To Repeal an Act, Entitled "An Act to Enable the School Districts of the Counties of Barnes and Griggs to Fund Their Indebtedness," approved March 12, 1885.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REPEALED.] That an act of the Legislative Assembly of the Territory of Dakota, entitled "an act to enable the school districts of the counties of Barnes and Griggs to fund their indebtedness," approved March 12th 1885, shall be and the same is hereby repealed.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1885.

CHAPTER 177.

NELSON COUNTY—SPECIAL FUNDING ACT REPEALED.

AN ACT To Repeal Section Five, of an Act, Entitled "An Act to Authorize the County Commissioners of Nelson County to Fund the Outstanding Indebtedness Thereof," approved March 13, 1885.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WARRANTS.] That section five of an act, entitled "an act to authorize the county commissioners of Nelson county to fund

the outstanding indebtedness thereof," approved March 13, 1887, be and the same is hereby repealed.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 19, 1887.

CHAPTER 178.

PEMBINA COUNTY—SINKING FUND BOND TAX.

AN ACT To Amend Chapter Twenty-three of the Special and Private Laws of 1881, Entitled "An Act Authorizing the Board of County Commissioners of Pembina County to Fund the Outstanding Indebtedness Thereof."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. WHEN TAX SHALL BE LEVIED.] That section four (4) chapter twenty-three of the Session Laws of 1881, be and the same is hereby amended by changing the word "eight," in line five, of said section and inserting the word "seven."

§ 2. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved, March 11, 1887.

CHAPTER 179.

BILLINGS, STARK AND LAWRENCE COUNTIES—BOUNDRARIES.

AN ACT To Define the Boundaries of Billings, Stark and Lawrence Counties.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BOUNDARIES OF BILLINGS COUNTY.] The boundaries of the county of Billings are hereby designated and established as follows, to-wit: Beginning at the point where the line between townships one hundred and forty-four (144) and one hundred and forty-five (145) north, intersects the boundary line between the Territories of Dakota and Montana; thence south along said boundary line to the line between townships one hundred and thirty-two (132) and one hundred and thirty-three (133) north; thence east along said township line to the line between ranges ninety-

seven (97) and ninety-eight (98) west; thence north along said range line to the line between townships one hundred and thirty-six (136) and one hundred and thirty-seven (137) north; thence west along said township line to the line between ranges ninety-nine (99) and one hundred (100) west; thence north along said range line to the line between townships one hundred and forty (140) and one hundred and forty-one (141) north; thence east along said township line to the line between ranges ninety-seven (97) and ninety-eight (98) west; thence north on said range line to the line between townships one hundred and forty-four (144) and one hundred and forty-five (145) north; thence west along said township line to the place of beginning; and the territory included within such boundaries shall be and constitute the said county at [of] Billings.

§ 2. BOUNDARIES OF STARK COUNTY.] The boundaries of the county of Stark are hereby designated and established as follows, to-wit: Beginning at the point on the line between townships one hundred and forty (140) and one hundred and forty-one (141) north, where the same is intersected by the line between ranges ninety-nine (99) and one hundred (100) west; thence south along said range line to the line between townships one hundred and thirty-six (136) and one hundred and thirty-seven (137) north; thence east along said township line to the line between ranges ninety (90) and ninety-one (91) west; thence north along said range line to the line marking the forty-seventh (47th) degree north latitude; thence west along said degree line to the line between ranges ninety-three (93) and ninety-four (94) west; thence south along said range line to the line between townships one hundred and forty (140) and one hundred and forty-one (141) north; thence west along said township line to the place of beginning; and the territory included within such boundaries shall be and constitute the said county of Stark.

§ 3. BOUNDARIES OF LAWRENCE COUNTY.] The boundaries of the county of Lawrence are hereby designated and established as follows, to-wit: Beginning at a point on the boundary line dividing the Territory of Dakota and the Territory of Wyoming, ten (10) miles north of the point where the forty-fourth (44th) parallel of north latitude intersects the western boundary of Dakota Territory, which point is the northwest corner of Pennington county; thence running east in a direct line along the northern boundary of Pennington county to a point where it intersects with the channel of the south fork of the Big Cheyenne River; thence northerly along said south fork to its confluence with the Belle Fourche, on North Fork; thence northwesterly along said north fork of the Cheyenne, or Belle Fourche River, to a point where the one hundred and third (103d) meridian, west of Greenwich, crosses said river; thence north along said one hundred and third (103d) meridian to the north line of township No. seven (7) north of the Black Hills base line; thence west along said north

line of township seven (7) to a point where said line crosses the center of the channel of Red Water creek; thence in a westerly direction along the center of the channel of said Red Water creek to the boundary line between Dakota and Wyoming Territories; thence south along said boundary line to the point of beginning; and the territory included within such boundaries shall be and constitute the said county of Lawrence.

§ 4. All acts and parts of acts, in conflict with the provisions of this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, DAK., March 10, 1887.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 180.

PIERCE AND CHURCH COUNTIES CREATED—BOUNDARIES OF BOTINEAU, ROLETTE, M'HENRY AND SHERIDAN COUNTIES DEFINED.

AN ACT Creating the Counties of Pierce and Church and Defining the Boundaries of the Counties of "Bottineau," "Rolette," "McHenry" and "Sheridan" and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. COUNTY OF PIERCE.] That the district of country included within the following boundaries, to-wit: Beginning at the southwest corner of Towner county, thence north along the west line of said county of Towner, to the northeast corner of township 158 north of range sixty-nine west; thence west along the line between townships 158 and 159 to the northwest corner of township 158 north of range seventy-four west; thence south along the line between ranges seventy-four and seventy-five to the southwest corner of township 153 north of range seventy-four west; thence east along the line between townships 152 and 153 to the northeast corner of township 152 north of range seventy-four west; thence south along the line between ranges seventy-three and seventy-four to the southwest corner of township 151 north of range seventy-three west; thence east along the line between townships 150 and 151 to the southeast corner of township 151

north of range 72 west; thence north along the line between ranges 71 and 72 to the northeast corner of township 156 north of range 72 west; thence east along the north line of Benson county to the place of beginning, be and the same is hereby constituted the county of "Pierce."

§ 2. DEFINING M'HENRY COUNTY.] That the boundaries of the county of McHenry be and the same are hereby changed and modified, so that hereafter the said county of McHenry shall be bounded as follows to wit: Beginning at the southeast corner of township 153, north of range 75 west; thence north along the line between ranges 74 and 75 to the northeast corner of township 158 north of range 75 west; thence west along the line between townships 158 and 159 to the northeast corner of township 158 north of range 76 west; thence north along the line between ranges 75 and 76 to the northeast corner of township 159 north of range 76 west; thence west along the line between township 159 and 160 to the northwest corner of township 159 north of range 80 west; thence south along the line between ranges 80 and 81 to the southwest corner of township 157 north of range 80 west; thence east along the 14th parallel to the northeast corner of township 156 north of range 81; thence south between ranges 80 and 81 to the southwest corner of township 153 north of range 80 west; thence east along the line between townships 152 and 153 to the place of beginning.

§ 3. BOTTINEAU COUNTY.] That the following described territory, to-wit: Townships 160, 161, 162, 163 and 164, of range 79 west, and townships 160, 161, 162, 163 and 164, of range 80 west, are hereby attached to and made a part of Bottineau county.

§ 4. COUNTY OF CHURCH.] That all that district of country included within the following boundaries, to-wit: Beginning at the southeast corner of township 149, north of range 74 west; thence north along the line between ranges 73 and 74 to the northeast corner of township 152, north of range 74 west; thence west along the line between townships 152 and 153 to the northwest corner of township 152 north of range 80 west; thence south along the line between ranges 80 and 81, to the southwest corner of township 149 north of range 80 west; thence east along the line between townships 148 and 149 to the place of beginning, be and the same is hereby constituted the county of Church.

§ 5. CHANGE OF CERTAIN BOUNDARIES.] The boundaries of the counties of Benson, Bottineau, Rolette, Renville and Sheridan are hereby changed and modified to conform with the provisions of this act.

§ 6. NEW COUNTY TO BEAR PORTION OF INDEBTEDNESS OF OLD.] Every county created, or the boundary lines of which are changed under the provisions of this act, which acquires any new territory, shall pay that portion of the existing indebtedness of the original county from which any portion is segregated, to be determined as follows: As the number of acres segregated bears to the total

number of acres contained in said original county, so shall the portion of the indebtedness to be borne by the county acquiring said segregated territory, bear to the total amount of indebtedness of said original county.

§ 7. All acts or parts of acts in conflict herewith are hereby repealed.

§ 8. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 181.

WARD AND RENVILLE COUNTIES—BOUNDARIES.

AN ACT To Define the Boundaries of Ward and Renville Counties.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CHANGING THE BOUNDARIES OF WARD COUNTY.] That the boundaries of the county of Ward be and the same are hereby changed, so that hereafter the said county of Ward shall be bounded as follows to wit: Beginning at the southeast corner of township one hundred and fifty-three (153) north, range eighty one (81) west; thence north along the line between ranges 80 and 81 west to the northeast corner of township 158 north of range 81 west; thence west along the line between township 158 and 159 to the northwest corner of township 158 north of range 87 west; thence south along the line between ranges 87 and 88 to the southwest corner of township one hundred and fifty-three (153) north of range eighty-seven (87) west; thence east along the line between townships one-hundred and fifty-two (152) and one hundred and fifty-three (153) to the place of beginning.

§ 2. ATTACHED TO RENVILLE COUNTY.] That the following described territory, to-wit: Townships 159, 160, 161, 162, 163 and 164 of range 82 west, and townships 159, 160, 161, 162, 163 and 164 of range 81 west, are hereby attached to and made a part of Renville county.

§ 3. CHANGING BOUNDARIES OF M'HENRY AND WYNN.] That the boundaries of the counties of McHenry and Wynn are hereby changed and modified to conform with the provisions of this act.

§ 4. TREASURER AUTHORIZED TO COLLECT TAXES.] The treasurer of McHenry county is hereby authorized to collect all taxes heretofore levied in townships 153, 154, 155 and 156, of range 81 west of the fifth principal meridian, in the same manner as he is authorized to collect other taxes.

§ 5. INDEMNITY FUND.] The county commissioners of Ward county shall annually levy a tax of one mill on the dollar on all taxable property in said Ward county, and said taxes, when collected, shall be known as the "Indemnity Fund," and shall be paid to the treasurer of McHenry county by the treasurer of Ward county on or before the first day of January of each year until the amount so paid shall be sufficient to discharge the proportionate share of indebtedness of McHenry county, chargeable to the townships named in section four of this act, and whenever the said proportionate share of the indebtedness aforesaid shall have been paid as herein provided, said levy shall be discontinued, and no longer made by said commissioners, and any balance that may be left of any such tax, after paying said proportionate share of indebtedness shall be turned into the general county fund of said Ward county.

§ 6. GOVERNOR TO CALL ELECTION.] The Governor of the Territory shall on or before the first day of May, 1887, order an election to be held in that part of the Territory which, by the terms of this act, is detached from McHenry county and attached to Ward county, and shall appoint three (3) judges, residing in said territory, to conduct said election; said election to be conducted in the same manner as is now provided by the election laws of this Territory, except as hereinafter provided. Notice of said election shall be posted at least twenty (20) days before said election, and shall contain a clause notifying the voters that said election is held for the purpose of giving the qualified voters of said territory an opportunity of voting upon the question of being attached to said Ward county; and the ballots voted at said election shall have written or printed upon them the words "For annexation to Ward county," or "Against annexation to Ward county," and the returns of said election shall be certified to the Governor; and if a majority of all the votes cast shall be in favor of annexation to Ward county, then the said territory shall be attached to said Ward county; and if a majority of votes cast are against annexation to Ward county, then said territory shall be and remain a part of McHenry county, and the Governor shall on or before the first of July, 1887, certify the result to the county clerk of Ward county and McHenry county respectively, and the expenses of said election shall be paid out of the treasury of the county to which said territory shall hereafter be attached under the provisions of this act.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

§ 8. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 182.

CAVALIER COUNTY—BOUNDARIES.

AN ACT Defining the Boundaries of Cavalier County and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BOUNDARIES.] All that district of country included within the following boundary lines shall be and the same is hereby constituted and declared to be the county of Cavalier, *viz.*: Beginning at the southeast corner of township 159 north, range 57 west; thence north to the international boundary on the line running between ranges 56 and 57; thence west on the international boundary line to a point where said line is intersected by the line running between ranges 64 and 65; thence south to the southwest corner of township 159 north, range 64 west; thence east on the township line between townships 158 and 159 to the place of beginning, shall be and remain the county of Cavalier.

§ 2. COUNTY SEAT.] The county seat of said county shall be and remain as now located, subject to removal under section seven, of chapter twenty-one, of the Political Code providing for the removal of county seats.

§ 3. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 183.

MORTON—BOUNDARIES.

AN ACT To Establish and Define the Boundaries of Morton County.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. BOUNDARIES.] That the boundaries of the county of Morton be and the same are hereby fixed, established and defined as follows: Beginning at the main channel of the Missouri river,

where the tenth (10th) standard parallel intersects the said channel; thence west on said line to the range line between ranges ninety (90) and ninety-one (91) west; thence south along said range line to the point where said line intersects the south fork of the Cannon Ball river; thence easterly along the channel of the said Cannon Ball river to the point where the said Cannon Ball river forms a junction with the said Missouri river; thence north-easterly along the main channel of the said Missouri river to the place of beginning.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 18, 1887.

COUNTY AUDITOR.

CHAPTER 184.

TERM OF OFFICE EXTENDED IN CERTAIN CASES.

AN ACT To Extend the Term of Office of County Auditors Elected at the Annual Election of 1885.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TERM OF OFFICE.] That all county auditors, who were elected at the annual election in 1885, and who have since qualified and are now assuming the duties of said office, shall hold said office until the 1st day of March, following the general election in 1888, and the said terms of office of such county auditor, are hereby extended to the 1st day of March 1889, or until their successors are elected and qualified.

§ 2. ADDITIONAL BONDS.] It shall be the duty of such county auditors, whose terms of office are hereby extended, to give such further bonds for the faithful performance of the duties of their said offices for the year 1888, as the county commissioners of their respective counties may require.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 12, 1887.

COUNTY CLERK.

CHAPTER 185.

RELATING TO YANKTON COUNTY.

AN ACT Entitled "An act to Amend an act Entitled An act to Provide for the Appointment of a County Clerk for Yankton County, and to Define his Duties," approved March 9th, 1883.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REGARDING DUTIES.] Section nine of an act entitled "An act to provide for the appointment of a county clerk for Yankton county, and to define his duties," approved March 9th, 1883, is amended by striking out of said section one [nine] the words "When the claim of any person against said county is allowed, in whole or in part, by the board of county commissioners, no order shall be issued in payment of such claim, or any part thereof, until the expiration of thirty days from the date of said decision."

§ 2. This act shall be in force from and after its passage and approval.

Approved, March 10, 1887.

EXECUTIVE OFFICE.

CHAPTER 186.

APPROPRIATION FOR CLERICAL ASSISTANCE.

AN ACT To Amend Section One, of Chapter Forty-eight, of the Special Laws of 1885, Entitled "An Act to Provide for Payment of Clerical Work in the Executive Office."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CLERICAL ASSISTANCE.] That section one, of chapter forty-eight of the Special Laws of 1885, be amended, by striking out in the last line of said section the words "five hundred" and inserting in place and stead thereof, the words "one thousand."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

GRAND ARMY BADGES.

CHAPTER 187.

AN ACT For Prevention of the Wearing of G. A. R. Badge When not Entitled Thereto.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. UNLAWFUL WEARING OF GRAND ARMY BADGES.] That any person found wearing the badge of the Grand Army of the Republic not entitled to the same by being a member thereof, shall upon conviction before a justice of the peace or other officer

having jurisdiction in such cases, be subject to a fine not to exceed twenty-five (25) dollars for each and every offence together with costs of prosecution.

§ 2. FINES, HOW PAID.] One-fourth of the fine shall be paid to the complainant, the remaining three-fourths to be paid to the county treasurer for the benefit of any honorably discharged soldiers or sailors who may be found needy in such county, and upon application therefor to the county auditor, if there be one, or if not to the chairman of the county board of commissioners, such auditor or chairman of the board shall issue a warrant on the treasurer for so much of such money as he may deem right and proper.

§ 3. This act shall take effect on and be in force after July 1, 1887.

Approved, March 11, 1887.

LEGALIZING ACTS.

CHAPTER 188.

LEGALIZING CERTAIN ELECTION HELD IN CITY OF SPEARFISH.

AN ACT Legalizing a Certain Election Held in the City of Spearfish in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LEGALIZING ELECTION—COUNCIL TO ISSUE BONDS.] That the election held in the city of Spearfish on the tenth (10th) day of May 1886, for the purpose of determining the question of issuing the bonds of said city, for the sum of twenty thousand (20,000) dollars, as aid in the construction of a system of waterworks in said city, be and the same is hereby legalized and made valid, and the city council of the said city of Spearfish is hereby authorized, to issue the bonds of said city in the sum of twenty thousand (20,000) dollars in pursuance of said election, which bonds when properly issued and signed shall be legal and valid and binding upon said city.

§ 2. DENOMINATION.] Said bonds to be of the denomination of five hundred (500) dollars each, in pursuance of said election,

which bonds shall run for twenty (20) years and bear interest payable annually, at the rate of not to exceed six (6) per cent. per annum.

§ 3. BONDS, HOW SOLD.] That said bonds, when so issued, shall be advertised for sale at least during the term of thirty (30) days, in at least one newspaper in the city of New York, one newspaper in the city of Boston, and in two (2) newspapers of the Territory of Dakota, and then the same to be sold to the highest and best bidder, in such manner as the city council of the city of Spearfish may direct; *Provided, however,* That said bonds shall not be sold for less than par.

§ 4. This act shall take effect from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 189.

LEGALIZING CERTAIN ACTS OF BOARD OF EDUCATION OF CITY OF HURON.

AN ACT Legalizing Certain Acts of the Board of Education, of the City of Huron, Beadle County, Dakota Territory, and Authorizing Said Board of Education to Issue Bonds, to Take up Outstanding Warrants Issued by it, and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ACTS OF BOARD OF EDUCATION LEGALIZED.] The action of the board of education, of the city of Huron, of the county of Beadle and Territory of Dakota, in contracting on the twelfth day of July, A. D. 1886, for the sale of warrants of the independent school district of Huron, at par, drawing eight per cent. interest, to the extent of twenty thousand dollars and agreeing to have such warrants funded in bonds running ten years, with the privilege of extending the time to twenty years, drawing eight per cent. interest, payable annually, and the action of said board of education in afterwards issuing twenty warrants of one thousand dollars each, in pursuance of said contract, for the purpose of purchasing school sites and erecting, altering and furnishing school buildings in said city of Huron, is hereby legalized.

§ 2. AUTHORIZING THE ISSUING OF BONDS.] The board of education of the city of Huron, of the county of Beadle, and Territory of Dakota, is hereby empowered and authorized to issue bonds of the city of Huron, not less than one thousand dollars

each, to the extent of twenty thousand dollars, for the purpose of taking upon and redeeming the warrants issued by said board of education under its contract of July 12th, 1886, payable twenty years after date, but subject to payment and redemption at the option of the board of education of the city of Huron, or its successors, at any time after ten years from the date thereof, which bonds shall draw interest at the rate of eight per cent. per annum from date until paid, interest payable annually. The bonds shall specify on their face the date of issue, the amount, and that they were issued for school purposes, the time and place of payment, and the rate of interest. They shall be printed on good paper, with coupons attached for each year's interest, so arranged that the last coupon shall fall due at the same time as the bonds. Each of said bonds and each of the coupons thereto attached, shall be issued under the hand of the president of said board of education and the seal of said board, and attested by the secretary of said board. Said bonds and interest shall be made payable at such place or places as the board of education may designate in said bonds. The board of education shall provide a bond register, in which shall be kept a record of the number, amount, date, place of payment, rate of interest and name of payee, of each bond issued under this act. The warrants redeemed under the provisions of this act shall be canceled and destroyed in the presence of the board of education, at the session of said board next ensuing after the redemption of said warrants.

§ 3. BONDS TO BE USED TO REDEEM WARRANTS.] Said bonds when issued are to be used only for the purpose of redeeming and taking up the warrants that have been issued by said board of education, prior to the passage of this act, under the contract made by said board July 12th, 1886, and are to be so disposed of at not less than their face value, and without any discount whatever.

§ 4. BOND TAX.] The said board of education is hereby granted full power and authority to levy taxes from time to time, as it may deem necessary, not to exceed one per cent. of the taxable property in said city of Huron, in addition to the tax already allowed by law, for the purpose of paying the interest on said bonds promptly, when due, and for creating a sinking fund for paying the principal of said bonds when due.

§ 5. DUTIES OF TAX COLLECTOR.] It shall be the duty of the officer authorized by law to collect other city taxes, of said city of Huron, to collect the taxes herein provided for, and he is hereby empowered and authorized to collect and to enforce the collection of the said taxes, in the same manner as in other cases provided by law, and he shall receive and pay over the moneys so collected by him, to the treasurer of said city, to be held by said treasurer as a part of the school funds of said city of Huron, and shall disburse and account for the same in the same manner as the other school funds of said city.

§ 6. MUST BE SUBMITTED TO ELECTORS.] Nothing in this act shall be construed to authorize the issuing of such bonds, unless the question of issuing said bonds shall have been first submitted to the electors of said city of Huron, at a regular city election, or at a special election, called for that purpose, nor unless a majority of all the legal electors of said city, voting at such election shall vote in favor thereof.

§ 7. This act shall take effect from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

BISMARCK, DAK., March 5, 1887:

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,
Secretary of the Territory.

CHAPTER 190.

LEGALIZING CERTAIN ELECTION HELD IN CITY OF SIOUX FALLS.

AN ACT Legalizing a Certain Election Held in the City of Sioux Falls and for Other Purposes.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LEGALIZING ELECTION—COUNCIL TO ISSUE BONDS. That the election held in the city of Sioux Falls, on the sixteenth (16th) day of February, eighteen hundred and eighty-six (1886), for the purpose of determining the question of issuing the bonds of said city for the sum of sixty thousand (60,000) dollars, as aid in the construction of the line of the Cedar Rapids, Iowa Falls and Northwestern railway company into said city, be and the same is hereby legalized and made valid, and the city council of the said city of Sioux Falls is hereby authorized to issue the bonds of said city in the sum of sixty thousand (60,000) dollars, said bonds to be of the denomination five hundred (500) dollars each, in pursuance of said election, which bonds shall run for twenty (20) years and bear interest, payable annually at the rate of not to exceed seven (7) per cent per annum, when properly issued and signed in accordance with the provisions of the charter and ordinances of said city for the issuing of bonds, shall be legal and valid and binding upon said city.

§ 2. BONDS—HOW SOLD.] That said bonds, when so issued, shall be advertised for sale and sold to the highest bidder in ac-

cordance with the provisions of the charter of the city of Sioux Falls, for the sale of such bonds.

§ 3. PROCEEDS OF—HOW APPLIED.] The proceeds of the sale of said bonds shall be applied as follows:

1. There shall be paid into the treasury of the city of Sioux Falls such an amount as has already been expended by the city council of said city, in securing right of way for said railroad.

2. There shall be paid to the Cedar Rapids, Iowa Falls and Northwestern Railway Company such sum as bonus, or as aid, for constructing its line into the city of Sioux Falls, as the city council of said city in regular session shall determine to be justly due to said railroad company upon said contract with said company; *Provided, however,* That no larger amount of said bonds shall be issued or sold, than shall be necessary to carry out the provisions of this section, not to exceed sixty thousand (60,000) dollars.

§ 4. BONDS MUST BE SOLD AT PAR.] Said bonds shall not be sold at less than par, and that no fees or commissions shall be allowed for selling or negotiating the sale of such bonds, and that no fees or commissions of any kind shall be allowed or paid to the city treasurer or to any other officer for collecting or disbursing the proceeds of said bonds.

§ 5. This act shall take effect from and after its passage and approval.

Approved, February 18, 1887.

CHAPTER 191.

A. L. BAIN.

AN ACT Legalizing the Acts of A. L. Bain as Notary Public of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ACTS AS NOTARY PUBLIC LEGALIZED.] That all acknowledgements taken before, and all oaths administered by, A. L. Bain as notary public of the Territory of Dakota, between the 15th day of December, 1885, and the 3d day of April, 1886, are hereby legalized.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 192.

MAX HOEHN.

AN ACT To Legalize the Acts of Max Hoehn as Notary Public of the Territory of Dakotas.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ACKNOWLEDGMENTS, ETC., LEGALIZED.] That all acknowledgments of deeds, mortgages and all other instruments in writing and all oaths administered by, and affidavits taken before, Max Hoehn, as notary public of the Territory of Dakota, between the sixteenth (16th) day of November A. D. 1880 and the third (3rd) day of December A. D. 1885, are hereby legalized and declared to have the same force and effect, in both law and equity, as if said acknowledgments, oaths, or affidavits had been taken by a duly authorized officer to take acknowledgments, oaths or affidavits, and the record of such instruments, acknowledgments, oaths or affidavits shall have the same force and effect, as if he had been duly authorized to take the same.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 12, 1887.

CHAPTER 193.

HENRY KROGH.

AN ACT To Legalize the Acts of Henry Krogh as a Notary Public of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ACKNOWLEDGMENTS, ETC., LEGALIZED.] That all acknowledgments of deeds, mortgages and other instruments in writing, and all oaths administered by, and affidavits taken before, Henry Krogh, as notary public of the Territory of Dakota, between the twenty-fourth (24th) day of July, 1886, and the first day of January, 1887, are hereby legalized and declared to have the same force and effect in both law and equity as if said acknowledg-

ments, oaths or affidavits had been taken by a duly authorized officer to take acknowledgments, oaths or affidavits, and the record of such instruments, acknowledgments, oaths or affidavits shall have the same force and effect as if he had been duly authorized to take the same.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 4, 1887.

CHAPTER 194.

ALLEN M. CHANEY.

AN ACT To Legalize the Acts of Allen M. Chaney as Notary Public of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ACTS AS NOTARY PUBLIC LEGALIZED.] That all acknowledgments, deeds, mortgages and all other instruments in writing, and all oaths administered by, and affidavits taken before, Allen M. Chaney, notary public of the Territory of Dakota, between the 10th day of June, A. D. 1886 and the 22d day of November, A. D. 1886, are hereby legalized, and such acknowledgments shall have the same force and effect as if the said Allen M. Chaney, as such notary public, was duly authorized to take and certify acknowledgments of deeds, mortgages and other instruments, in writing, and to take and certify to the administering of oaths and affidavits by the laws of this Territory.

§ 2. RECORDS TO BE VALID.] That deeds, mortgages and other instruments in writing, the acknowledgment of which had been taken and certified by and before Allen M. Chaney as notary public of this Territory, between the tenth (10th) day of June, A. D. 1886, and the twenty-second (22d) day of November, A. D. 1886, are hereby declared to be acknowledged and certified, and the record of the same shall be as valid and binding in law and equity as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages and other instruments in writing.

§ 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed, so far as they apply to the cases herein provided for by this act.

§ 4. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

LAUNDRIES.

CHAPTER 195.

AUTHORIZING ISSUE OF LICENSES TO CARRY ON BUSINESS IN CERTAIN CASES.

AN ACT Authorizing the Issuance of License for Carrying on the Business of Public Laundries.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. LICENSE REQUIRED.] No person or persons, not citizens of the United States, or who have not declared their intention to become such, shall be permitted to conduct or carry on the business of a public laundry in any incorporated city, town or village in this Territory, without having first obtained a license for that purpose, as hereinafter provided.

§ 2. WHO SHALL GRANT LICENSE.] The city council, trustees or other governing body of the respective city, town or village shall have the power to grant such license, on the payment into the treasury of such city, town or village by the applicant for such license, a sum to be assessed and fixed by the city council, trustees or other managing board, not less than ten dollars nor more than fifty dollars per annum.

§ 3. AUTHORITY UNDER LICENSE.] Such license shall authorize the person receiving it, to carry on and conduct the business of the public laundry, within such incorporated city, town, or village for a period of one year from the time of granting the same.

§ 4. TEMPORARY PERMIT.] If the city council, trustees or other managing board, be not in session when the application is made, the clerk of such incorporated city, town or village may grant a written permission to the applicant, to carry on and conduct the business of a public laundry, until the end of the next session, or meeting of such city council, trustees or other managing board, or if no action on the case be taken by the council, trustees or other managing board, then for the term provided in the third section of this chapter, and at the time of granting such license, the clerk may assess the amount to be paid into the treasury.

§ 5. TEMPORARY PERMIT VACATED—HOW.] When permission shall be granted in vacation as aforesaid, it shall be the duty of the city council, trustees or other managing board, at their next

regular meeting thereafter, to examine such permit, and if approved to proceed forthwith to assess and fix the amount to be paid for such license thereafter, which amount shall be paid as in the case of original applications, but if the same be not approved, the license shall be vacated and no other sum shall be required to be paid than that fixed by the said clerk.

§ 6. **PENALTY.**] If any person or persons, not citizens of the United States, or who have not declared their intentions to become such, shall directly or indirectly carry on or conduct the business of the public laundry, in any incorporated city town or village, without being first duly authorized by licence or permit as aforesaid, such person or persons so offending shall forfeit and pay a sum not less than ten dollars nor exceeding one hundred dollars.

§ 7. **PUBLIC LAUNDRY DEFINED.**] Public laundries are defined within the meaning of this act to be any house, shed or building, in which shall be carried on the business of washing and ironing of clothes, or either washing or ironing of clothes for hire or reward.

§ 8. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

RELIEF.

CHAPTER 196.

GEORGE LILLEY.

AN ACT To Reimburse and Pay George Lilley for Money Advanced by Him to Pay for Finishing and Completing Portions of Public Buildings.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. **TERRITORIAL AUDITOR TO DETERMINE MERITS.**] That George Lilley be reimbursed and paid for money advanced by him to finish and complete certain portions of the Agricultural College; *Provided*, That the Territorial Auditor shall hear and determine upon the merits and legality of said claim against the

Territory, before any sum can be paid to said George Lilley, and shall audit and cause to be paid only such sum as he shall upon such hearing determine to be justly due from the Territory.

§ 2. APPROPRIATION.] That there is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated, the sum of five hundred and twenty dollars and sixty-five cents, or so much thereof as shall be necessary to pay the amount which the Territorial Auditor shall determine to be justly due, and interest thereon at the rate of seven per cent. per annum from the first day of September 1884 to the date of the passage and approval of this act, in payment of the sum aforesaid and interest, advanced by George Lilley to pay for material and labor to complete certain portions of the Agricultural College.

§ 3. AUDITOR TO ISSUE WARRANTS.] The Territorial Auditor is hereby required to draw his warrant on the Territorial Treasurer in favor of George Lilley for the sum of five hundred and twenty dollars and sixty-five cents, or so much thereof as he shall have determined to be justly due, together with interest thereon from September 1st, 1884, at the rate of seven per cent. per annum.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 197.

GEORGE W. HOPP.

AN ACT To Reimburse George W. Hopp for Moneys Advanced by him to pay for Plans and Specifications of Public Buildings.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AUDITOR TO DETERMINE MERITS.] That George W. Hopp be reimbursed and paid for money advanced by him, to pay the architect, C. H. Lee, for the plans and specifications of the Agricultural College, for which no provision has ever been made by law; *Provided*, That the Territorial Auditor shall hear and determine upon the merits and legality of said claims against the Territory, before any sum can be paid the said George W. Hopp, and shall audit and cause to be paid only such sums as he shall upon hearing, determine to be justly due from the Territory.

§ 2. APPROPRIATION.] That there is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated, the sum of five hundred dollars, or so much thereof as

shall be necessary to pay the amount, which the Territorial Auditor shall determine to be justly due, and interest thereon at the rate of seven per cent. per annum from the first day of July, 1883, to the date of the passage and approval of this act, in payment of all claims due from the Territory of Dakota to George W. Hopp, for furnishing the plans and specifications for the Dakota Agricultural College, of the sum of five hundred dollars advanced by George W. Hopp, July 1, 1883, to pay for the plans and specifications of the Agricultural College.

§ 3. AUDITOR TO ISSUE WARRANT.] The Territorial Auditor is hereby required to draw his warrant in favor of George W. Hopp, for the sum of five hundred dollars, or so much thereof as he shall have determined upon a hearing to be justly due, together with interest thereon from July 1, 1883, at the rate of seven per cent. per annum.

§ 4. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 198.

ARTHUR LINN.

AN ACT To Appropriate Funds for the Payment of a Claim Against the Territory of Dakota, for the Printing of the Bills, Joint Resolutions and Memorials for the Legislative Assembly of 1872-3, Entitled "A Joint Resolution Providing for, and the Election of a Public Printer for the Legislative Assembly and the Territory of Dakota."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AUDITOR TO EXAMINE AND ALLOW.] The Auditor of the Territory of Dakota is hereby authorized and empowered, to hear, determine and audit a certain claim against the Territory of Dakota, for the printing of the bills, joint resolutions and memorials of the Legislative Assembly of 1872-3, by Arthur Linn, the public printer for said Legislative Assembly, under authority of a joint resolution entitled "A joint resolution providing for and the election of a Public Printer for the Legislative Assembly and the Territory of Dakota," and the Auditor of the Territory is empowered to issue his warrant in favor of Arthur Linn, for the sum of nine hundred and eighty-seven dollars and seventy cents, and the Territorial Treasurer is hereby directed to pay the amount mentioned in such warrant, out of any money in the Treasury not otherwise appropriated.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 199.

C. J. CUMMINGS AND M. WARE.

AN ACT To Appropriate Funds to Pay and Reimburse C. J. Cummings and M. Ware for Services, as Examiners of Undergraduates, Applying for Licenses to Practice Medicine in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AUDITOR TO EXAMINE AND AUDIT,] The Auditor of the Territory of Dakota, is hereby authorized and empowered to hear, determine and audit a certain claim, of C. J. Cummings and M. Ware for services rendered, and expenses incurred, while acting as examiners of undergraduates of medicine, applying for licenses during the years of 1885 and 1886, not exceeding the sum of one hundred and ninety-eight dollars and fifty cents, and the said Auditor is hereby empowered to issue his warrant upon the Territorial Treasurer for such sum or sums as he may allow said C. J. Cummings and M. Ware, and the Treasurer is hereby directed to pay the amount mentioned in such warrant out of any money in the Treasury not otherwise appropriated.

§ 8. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 200.

JOANNA MELTON.

AN ACT To Appropriate Four Hundred and Fifty (450) Dollars for the Relief of Joanna Melton for Moneys Expended and Services Rendered at the New Orleans Exposition.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. AUDITOR TO EXAMINE AND ALLOW,] The Auditor of the Territory is hereby authorized and empowered to hear, determine and to audit a certain claim and demand against the Territory of Dakota, and in favor of Joanna Melton, for services rendered the Territory as Commissioner for Dakota at the woman's department

at the World's Exposition held at New Orleans in the years 1884 and 1885, and the said Auditor is empowered to issue his warrant upon the Territorial Treasurer for the amount found due her, not exceeding the sum of four hundred and fifty (450) dollars, and the Treasurer is directed to pay the amount mentioned in such warrant out of any money in the Treasury not otherwise appropriated; *Provided*, Said sum so appropriated shall be returned to the general fund whenever any property left over from the exhibits of said exposition and now belonging to the Territory shall be sold by order of the Governor.

§ 2. This act shall take effect and be in force from after its passage and approval.

Approved, March 11, 1887.

CHAPTER 201.

C. H. WAGNER.

AN ACT To Appropriate Funds to pay C. H. Wagner for Lambs [Lamps] and Chandeliers Placed in the Capitol Building.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FOR LAMPS AND CHANDELIERS.] The Auditor of the Territory of Dakota is hereby authorized and empowered to hear, determine, and to audit a certain [claim] of C. H. Wagner, against the Territory of Dakota, for lamps and chandeliers placed by him in the Capitol building, for the use of the Legislative Assembly, and the Territorial officers, not exceeding the sum of \$650, and the Auditor is empowered to issue his warrant upon the Treasurer for such sum or sums as he may allow said C. H. Wagner, and the Territorial Treasurer is hereby directed to pay the amount mentioned in such warrant, out of any money in the Treasury not otherwise appropriated.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

RAPID CREEK.

CHAPTER 202.

AMENDMENT.

AN ACT To Amend Section Three, of Chapter Ninety-four, of the General Laws Passed in the Year 1883.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. ACT, HOW CONSTRUED.] That section three, of chapter ninety-four, of the General Laws, passed in the year 1883, be and the same is hereby amended, to read as follows: "This act shall not be so construed as to interfere with or prevent any necessary or legitimate mining operation or sewerage system."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 4, 1887.

RELIGIOUS CORPORATIONS.

CHAPTER 203.

THE MORAVIAN SOCIETY—NAME CHANGED.

AN ACT To Amend the Name of the Religious Corporation, Incorporated Under the Title of "The Moravian Society, of Township 139 North, of Range Fifty-two West, Cass County, Dakota Territory."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. NAME CHANGED.] That the name of the religious corporation heretofore incorporated, under the General Laws of the Territory of Dakota, governing the incorporation of religious societies or corporations, and whose existence is evidenced by the certificate of the Secretary of the Territory of Dakota, dated on the twenty-

third day of March, A. D. 1881, be and the same is hereby changed from "The Moravian Society of township 139, north of range fifty-two west, Cass county, Dakota Territory," to "the Moravian society of township 138, north of range fifty-two west, Cass county, Dakota Territory."

§ 2. PREVIOUS GRANTS AND CONVEYANCES CONFIRMED.] That all grants or conveyances of real estate heretofore made to said corporation under its corporate name as first set forth in section one of this act, be and the same are hereby confirmed to said corporation, under its name, as amended by this act.

Approved, February 12, 1887.

RAILROAD COMMISSIONERS.

CHAPTER 204.

DEFICIENCY APPROPRIATION FOR MAPS.

AN ACT Making an Appropriation to Pay Deficiency in Expense Account of Railroad Commissioners and for Railroad Maps.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated, the sum of two hundred and ninety-three dollars and eighty-three cents, for the purpose of reimbursing the Railroad Commissioners of Dakota for moneys expended by them for traveling and office expenses, and the further sum of one hundred (100) dollars to be paid Rand, McNally & Co., of Chicago, for two thousand maps of the railway system of Dakota.

§ 2. AUDITOR TO APPROVE ACCOUNTS.] The moneys above appropriated, to be disbursed only upon approved accounts duly audited by the Territorial Auditor.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

SOLDIERS AND SAILORS

CHAPTER 205.

PREFERMENT FOR APPOINTMENT IN CERTAIN CASES.

AN ACT To Secure in the Territory of Dakota, to Honorably Discharged Soldiers and Sailors, who Served in the Army and Navy of the United States During the Late War, the Rights and Privileges Guaranteed to Them by Sections 1754 and 1755 of the Revised Statutes of the United States; Also Section 3, Chapter 287, Laws of 1876.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PREFERRED FOR APPOINTMENT.] That in every public department and upon all public works of the Territory of Dakota, and of the cities, towns and villages thereof, honorably discharged Union soldiers and sailors of the late war shall be preferred for appointment; age, loss of limb or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them; *Provided*, They possess the requisite qualifications and business capacity necessary to discharge the duties of the position involved.

§ 2. DUTY OF PUBLIC OFFICIALS TO OBSERVE THE LAWS.] All officials or other appointing power in the public service, as set forth in the first section of this act, are firmly bound to a faithful compliance with this law.

§ 3. This act shall take [effect] and be in force immediately after its passage and approval.

Approved, March 11, 1887.

TIME LOCK SAFE.

CHAPTER 206.

TERRITORIAL TREASURER AUTHORIZED TO PURCHASE A TIME LOCK SAFE.

AN ACT Authorizing the Territorial Treasurer to Purchase and Deposit in the Office of the Territorial Treasurer a Time Lock Safe for the Use of Such Office.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. TREASURER AUTHORIZED TO PURCHASE—COST.] The Territorial Treasurer is hereby authorized to purchase a time lock safe to be delivered at the office of the said Treasurer in this Territory, which safe shall be of modern improvement, and shall not exceed in cost, delivered at said office, the sum of six hundred dollars.

§ 2. APPROPRIATED.] That there is hereby appropriated out of the general funds of the Territory, a sum, not to exceed six hundred dollars, for the purchase and delivery of the said safe; and the Territorial Auditor is hereby authorized to draw a warrant on the general fund for such purpose, upon the presentation to him by the Treasurer, of a bill for the cost of such safe duly certified by such Treasurer.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

USURY.

CHAPTER 207.

LAWS REVIVED AND MADE OPERATIVE IN CERTAIN COUNTIES.

AN ACT Reviving and Making Operative Within the Counties of Lawrence, Pennington, Custer, Fall River and Butte the Provisions of Sections Ten Hundred and Ninety-eight, (1098) and Eleven Hundred (1100) of the Civil Code, Entitled "Loan of Money."

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPLICATION OF GENERAL LAW.] That the provisions of sections ten hundred and ninety-eight (1098) and eleven hundred (1100), of chapter three (3), of title four (4), part four (4), of the Civil Code, entitled "Loan of Money," be and they are hereby revived, extended and made operative in the counties of Lawrence, Pennington, Custer, Fall River and Butte, and all those parts or portions of the Territory of Dakota wherein they were suspended and repealed by the provisions of chapter thirty-one (31) of the Session Laws of 1881.

§ 2. This act shall take effect and be in force from and after July 1, 1887.

Approved, March 10, 1887.

CHAPTER 208.

REPEAL OF LAW OF 1881.

AN ACT To Repeal Chapter Thirty-one of the General Laws of 1881.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. REPEALED.] That chapter thirty-one, of the General Laws of 1881, be and the same is hereby repealed.

§ 2. All acts or parts of acts conflicting herewith are hereby repealed.

§ 3. This act shall take effect and be in force from and after July 1, 1887.

Approved, February 2, 1887.

1887—26

T I T L E S O F

JOINT RESOLUTIONS AND MEMORIALS

PASSED BY THE LEGISLATURE OF 1887, AND NOT
PUBLISHED IN THIS VOLUME.

JOINT RESOLUTION praying for the passage of what is known as the Dawes Bill.

JOINT RESOLUTION authorizing the appointment of a committee to confer with the authorities of Montana in relation to measures for the prevention and suppression of contagious diseases among live stock.

JOINT RESOLUTION relative to a division of the Territory and the admission of each half into the union.

JOINT RESOLUTION for the appointment of certain committees to visit the insane asylums and penal institutions of Dakota.

JOINT RESOLUTION for appointment of a joint committee on apportionment.

JOINT RESOLUTION to prohibit the sale or licensing of the sale of intoxicating liquors in any building used or occupied by the Territorial officers or the Legislative Assembly of the Territory of Dakota.

JOINT RESOLUTION protesting against the removal of Fort Abraham Lincoln.

JOINT RESOLUTION praying for the speedy passage of a law providing for the opening of the Devil's Lake Indian Reservation.

JOINT RESOLUTION and Memorial to Congress asking for immediate steps to be taken for the selection of the public school lands allotted and designated as sections sixteen and thirty-six in the several townships in this Territory.

JOINT RESOLUTION and Memorial to Congress praying for the construction of a dam for the improvement of navigation on the Red river.

JOINT RESOLUTION and Memorial to Congress for the division of the Bismarck land district in the Territory of Dakota.

JOINT RESOLUTION and Memorial to the Congress of the United States of America for the improvement of the Big Sioux river.

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